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(KINGSBURY CROSSING)

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DECLARATION OF TIMESHARE USE

(KINGSBURY CROSSING)

This Declaration, made this 4<sup>th</sup> day of February, 1983, by CAPRI RESORTS, INC., a Nevada corporation ("Declarant"), is made with reference to the following Recitals and is as follows:

RECITALS

A. Declarant is the owner of certain real property (the "Property") located in the County of Douglas, State of Nevada, comprised of sixty-three (63) separate living units (each of which is herein called a "Dwelling Unit") together with related "Common Area" (as hereinafter defined). The Property is more particularly described in Exhibit A attached hereto and made a part hereof.

B. Declarant proposes to convey undivided interests in the Property, providing in each deed thereof that the grantee or grantees named therein shall have certain defined rights to occupy a "Unit" (as hereinafter defined) within the

When Recorded Mail to:

Capri Resorts, Inc.  
P.O. Box 5446  
Stateline, Nevada 89449

Mail Tax Statements To:

Kingsbury Crossing  
Owners Association  
P. O. Box 5446  
Stateline, Nevada 89449

Property and to use the Common Area, the "Common Furnishings" (as hereinafter defined) during certain specified time periods and reserving to Declarant and its respective successors and assigns the exclusive right to occupy the Property and to use the Common Area and the Common Furnishings during all other periods of time, subject to the declarations, limitations, covenants, conditions, and restrictions set forth in this Declaration.

C. By this Declaration, Declarant intends to establish a common scheme and plan for the use, enjoyment, repair, maintenance, restoration and improvement of the Property and the interests therein conveyed or reserved, and for the payment of taxes, assessments, insurance premiums and other expenses pertaining thereto.

NOW THEREFORE, in furtherance of such intent, Declarant hereby declares that the Property is and shall be held, conveyed, hypothecated, mortgaged, encumbered, leased, rented, used, occupied and improved subject to the declarations, limitations, covenants, conditions and restrictions set forth in this Declaration, as this Declaration may from time to time be further amended, and in such other rules and regulations as are instituted pursuant to the provisions of this Declaration and all of which declarations, limitations, covenants, conditions and restrictions and rules and regulations are declared to be in furtherance of a plan established for the purpose of enhancing and perfecting the value, desir-

irability and enjoyment of the Property and the interest or interests therein to be conveyed or reserved. All such declarations, limitations, covenants, conditions and restrictions and rules and regulations shall constitute covenants running with the land and equitable servitudes and liens, and shall be binding upon and for the benefit of Declarant and each such interest conveyed, to wit, each "Interval" (as hereinafter defined), and upon and for the benefit of all parties having or acquiring any right, title, interest or estate in the Property, including without limitation the heirs, executors, administrators, successors and assigns of any such parties and all subsequent owners and lessees of all or any part of the Property.

ARTICLE I

DEFINITIONS

In addition to other definitions provided for herein, as used herein the following terms shall have the following meanings:

1.1 "Articles" means the Articles of Incorporation of the Association which have been or shall be filed in the office of the Nevada Secretary of State as the same may be amended from time to time.

1.2 "Assigned Unit(s)" means any Unit(s), the use and occupancy of which has been assigned to an Interval Owner in accordance with the provisions of Article II, below.

1.3 "Association" means the Kingsbury Crossing Owners Association, a Nevada nonstock, nonprofit corporation, whose members consist of Owners.

1.4 "Board" means the Board of Directors of the Association.

1.5 "By-Laws" means the By-Laws of the Association adopted by the Board, as the same may be amended from time to time.

1.6 "Check-In-Time" and "Check-Out-Time" means the times designated as such in the then current Rules and Regulations.

1.7 "Common Area" means all portions of the Property other than (a) the interiors of the Units, the interiors of, the



Undedicated Units and, where applicable, patio or balcony areas appurtenant thereto, and (b) the Support Areas.

1.8 "Common Furnishings" means all furniture, furnishings, appliances, fixtures and equipment, telephone system and all other personal property from time to time owned, leased or held for use by the Association and which are located in or upon the Property.

1.9 "Declarant" means CAPRI RESORTS, INC., a Nevada corporation, or any successor-in-interest by merger or by express assignment of the rights of Declarant hereunder by an instrument executed by Declarant and recorded in the Office of the County Recorder, of Douglas County, Nevada.

1.10 "Declarant Intervals" means that number of Declarant Intervals equal to the difference between (i) 3213 and (ii) the number of Intervals conveyed to third parties by Original Deed. Declarant shall be considered to be the owner of all Declarant Intervals for all purposes hereunder.

1.11 "Declaration" means this instrument, as this instrument may be amended from time to time in the manner herein provided.

1.12 "Exchange Program" means a service provided by an independent organization whereby Interval Owners and owners of time periods in other timesharing programs may exchange Use Periods in the Property for time periods in projects in other locations.

1.13 "Exchange User" means an owner of a time period in another time sharing program who occupies a Unit and uses the Common Area pursuant to an Exchange Program.

1.14 "Fiscal Year" means the one year period commencing on January 1st of each year and shall be the fiscal year of the Association.

1.15 "Interval" means an undivided 1/3213 interest in the Property owned by an Interval Owner, together with the right to use and occupy a Unit, the Common Area and the Common Furnishings during a Use Period provided such use is reserved in accordance with the applicable provisions of the Rules and Regulations.

1.16 "Interval Owner" means the grantee or grantees of an Interval named in each Original Deed and its and their successor(s).

1.17 "Managing Agent" means the agent engaged by the Board pursuant to and in the manner provided in Paragraph 4.3 hereof.

1.18 "Mortgagee" means the beneficiary of a recorded deed of trust or the holder of a recorded mortgage encumbering any Interval. "Mortgage" means a mortgage or deed of trust.

1.19 "Original Deed" means each Grant Bargain and Sale Deed from Declarant first recorded after the date hereof which conveys each Interval conveyed by Declarant.

1.20 "Owner" means and includes (a) the grantee or grantees of an Interval named in each Original Deed and its and

their successor(s) and (b) Declarant with respect to each Declarant Interval.

1.21 "Owner's Season" means, with respect to each Interval Owner, the Season designated in the Original Deed naming the Interval Owner as grantee during which Season the Interval Owner has the right to reserve a Use Period.

1.22 "Owner's Use Year" means, with respect to each Interval Owner, the one-year period commencing on the first day of the calendar month following execution of a Purchase Agreement by the Interval Owner, and each 12 month period thereafter.

1.23 "Permitted User" means any person, other than an Exchange User, who occupies a Unit, in the Property by or under any Interval Owner, including, but not limited to, members of such Interval Owner's family, his guests, licensees or invitees.

1.24 "Purchase Agreement" means a Purchase and Sale Agreement and Escrow Instructions between Declarant and the person or entity named therein as "Buyer" providing for the sale by Declarant and the purchase by Buyer of one or more Intervals.

1.25 "Resortshare Program" shall mean the timesharing regime imposed upon the Property by this Declaration.

1.26 "Rules and Regulations" means the rules and regulations adopted and promulgated from time to time pursuant to subparagraph 4.2 (d) of this Declaration relating to the

possession, use and enjoyment of the Property.

1.27 "Season" means one of two seasonal time periods during which an Interval Owner has a right to reserve a Use Period, being either the "High Season" or the "Low Season," which quoted terms have the following meanings:

a. "High Season" means the aggregate period of time commencing at check-in time on the 23rd Friday of each calendar year and continuing until check-out time on the Thursday preceding the 44th Friday of each calendar year and the period commencing at check-in time on the 49th Friday of each calendar year and continuing until check-out time on the Thursday preceding the 18th Friday of the next succeeding calendar year.

b. "Low Season" means the aggregate period of time commencing at check-in time on the 18th Friday of each calendar year and continuing until check-out time on the Thursday preceding the 23rd Friday of each calendar year and the period commencing at check-in time on the 44th Friday of each calendar year and continuing until check-out time on the Thursday preceding the 49th Friday of each calendar year.

1.28 "Service Period" means, with respect to each Unit, a period of seven nights and days, not necessarily consecutive, during each Use Year, reserved by the Association as a Service Period. The Association shall determine which days and nights will comprise the Service Period for each Unit, which determination may be changed from time to time.

1.29 "Starting Date" means the date on which the first Original Deed is recorded.

1.30 "Support Areas" means the following portions of the Property: the service and maintenance area, the registration desk area, and the manager's office.

1.31 "Undedicated Unit" means each Dwelling Unit prior to the recordation of a Certificate of Dedication for such Dwelling Unit.

1.32 "Unit" means each Dwelling Unit, which shall have been designated as a Unit by Declarant, in Declarant's discretion, by recordation in the Office of the County Recorder of Douglas County, Nevada, of a Certificate of Dedication in the form of Exhibit B attached hereto and made a part hereof. Upon recordation of each Certificate of Dedication, a conformed copy thereof shall be delivered by Declarant to the secretary of the Association. The number of Units identified in Certificates of Dedication shall not be less than that number determined by dividing the sum of (i) 50 and (ii) the number of Intervals conveyed by Original Deed by 51, rounded to the lower whole number. Of the total number of Units identified in Certificates of Dedication, the number of "B Type Units" shall not be less than that number determined by multiplying the total number of units by 0.23 rounded to the next higher number.

1.33 "Unit Type" means any one of the two types of

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Dwelling Units, being either an "A Unit Type" or "B Unit Type" which quoted terms have the following meanings:

(a) "A Unit Type" means a studio or one bedroom Dwelling Unit with sleeping capacity for 4 persons, being Building 3, Dwelling Unit Nos. 101, 102, 103, 104, 105, 106, 107, 201, 202, 203, 204, 205, 206, 207, 301, 302, 303, 304, 305, 306, 307, and Building 4, Dwelling Unit Nos. 101, 102, 103, 104, 105, 106, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, as designated on Exhibit C attached hereto.

(b) "B Unit Type" means a two bedroom Unit with sleeping capacity for 6 persons, being Building 3, Dwelling Unit Nos. 208, 209, 210, 211, 308, 309, 310, 311, and Building 4, Dwelling Unit Nos. 212, 213, 214, 312, 313, 314, as designated on Exhibit C attached hereto.

1.34 "Use Period" means the time period or periods in an Owner's Season consisting of a maximum of 7 nights during the Owner's Use Year during which an Interval Owner has reserved the use of a Unit in accordance with the provisions of this Declaration and the Rules and Regulations.

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## ARTICLE II

### RESERVATION RIGHTS, USE RIGHTS AND USE RESTRICTIONS

2.1 Reservation and Use Rights of Owners. Subject to all the terms and conditions contained elsewhere in this Declaration and in the Rules and Regulations, an Interval Owner shall have the right, for each Interval owned (and, in the case of Declarant, during all periods not so reserved by Interval Owners), to use and occupy an Assigned Unit, and the Common Furnishings contained within such Assigned Unit, and the non-exclusive right to use and enjoy the Common Area during a Use Period; provided, however, that such Interval Owner shall have reserved such use and occupancy in accordance with the requirements and procedures for the making of reservations set forth in the then-current Rules and Regulations. The rights of Interval Owners shall be as set forth in the Rules and Regulations. No use or occupancy by an Interval Owner shall be permitted if such Interval Owner is delinquent in the payment of any amounts owed to the Association hereunder.

2.2 Occupancy. No Owner shall occupy a Unit or exercise any other rights of ownership with respect to a Unit other than the rights provided to him in this Article II during any time period other than his Use Period(s) unless expressly authorized by the Owner entitled to occupy the Unit during such time period. Each Owner shall keep the Unit occupied by him and the Common Furnishings therein in good condition and repair during his Use Period(s), vacate the Unit at the expiration of

his Use Period(s), remove all persons and property therefrom, excluding only the Common Furnishings, leave the Unit and the Common Furnishings therein in good and sanitary condition and repair and otherwise comply with such check-out and other procedures and regulations as may from time to time be contained in the Rules and Regulations. Any Owner may permit a Unit which he is entitled to occupy to be occupied by other persons (not in excess of the number of occupants permitted by the Rules and Regulations) for the purposes permitted by this Declaration during his Use Period(s), but such Owner shall be responsible for any loss, damage, destruction or violation of this Declaration or the Rules and Regulations (except on the part of an Exchange User) which occurs during such occupancy as if such Owner were occupying the Unit.

2.3 Failure to Vacate. If any Owner or his Permitted User fails to vacate a Unit at the end of his Use Period, or otherwise makes unauthorized use or occupancy of a Unit during a period other than his Use Period, or prevents another Owner, Permitted User or Exchange User (the "Detained Owner" or "Detained User") from using or occupying a Unit during such other Owner's Use Period, such Owner (the "Detaining Owner") and/or Permitted User (the "Detaining User") shall (a) be subject to immediate removal, eviction or ejection from the Unit wrongfully used or occupied; (b) be deemed to have waived any notice required by law with respect to any legal proceedings regarding removal, eviction or ejection (to the extent



that such notices may be waived under Nevada law); (c) reimburse the Association and the Detained Owner or Detained User for all costs and expenses incurred by him as a result of such conduct, including but not limited to costs of alternate accommodations, travel costs, court costs and reasonable attorneys' fees incurred in connection with removing, evicting or ejecting the Detaining Owner and/or Detaining User from such Unit, and costs (including reasonable attorneys' fees) incurred in collecting such reimbursement(s); and (d) pay to the Detained Owner and/or the Detained User entitled to use and occupy the Unit during such wrongful occupancy, as liquidated damages [in addition to the costs and expenses set forth in subparagraph 2.3(c) above], a sum equal to 200% of the fair rental value per day of the Unit for each day or portion thereof, including the day of surrender, during which the Detaining Owner and/or Detaining User prevents use and occupancy of the Unit; provided, however, that if the Detaining User is an Exchange User, the Owner whose Use Period was used by the Exchange User shall have no liability pursuant to the provisions of clauses (c) and (d) above. The Association shall be responsible for determining the "fair rental value" of a Unit. "Fair rental value" for a Unit shall be based upon the costs of renting comparable accommodations located in the vicinity of the Property. The Association shall use reasonable efforts to attempt to remove such Detaining Owner and/or Detaining User from the Unit, and/or to assist the Detained Owner or Detained

User in finding alternate accommodations during such holdover period; to secure, at the expense of the Association, alternate accommodations for any Detained Owner or Detained User which alternate accommodations shall be as near in value to the Detained Owner's or Detained User's Assigned Unit as possible and the cost thereof shall be assessed to the Detaining Owner (unless the detaining User was an Exchange User) as a "Personal Charge" (as hereinafter defined). In the event that the Association, in its sole discretion, deems it necessary to contract for a period greater than the actual period for which the use is prevented in order to secure alternate accommodations as set forth above, the cost of the entire period shall be assessed to the Detaining Owner as a Personal charge. By accepting any conveyance of an Interval, each Owner agrees that, in the event of a wrongful occupancy or use by him or any Permitted User, damages would be impracticable or extremely difficult to ascertain and that the measure of liquidated damages provided for herein constitutes fair compensation to those who are deprived of occupancy. If an Owner or his Permitted User by intentional or negligent act renders a Unit uninhabitable for the subsequent Use Period(s), then (i) such Owner shall be deemed a Detaining Owner, (ii) the foregoing provisions of this Paragraph 2.3 shall apply and (iii) such Owner shall be liable to the Owner(s) and/or Permitted User(s) of subsequent Use Period(s) just as if such Owner had refused to vacate the Unit at the end of his Use Period(s). For the

purposes of this Paragraph 2.3, the act or negligence of a Permitted User shall be deemed to be the act of the Owner.

2.4 Use Restrictions. Except as required to prevent damage or injury to persons or property in an emergency, no Owner shall make or authorize any alterations, additions or improvements to a Unit or its Common Furnishings; paint, repaint, tile, paper or otherwise refinish or redecorate the inner surfaces of the walls, ceilings, floors, windows or doors bounding any Unit which such Owner may from time to time occupy; or remove, alter or replace any portion of the Common Furnishings without the prior written consent of the Association. The right to perform all of the foregoing acts has been delegated to the Association by this Declaration. The foregoing prohibitions, however, shall not modify or affect the obligation of each Owner for the prudent care and ordinary maintenance and upkeep of all property subject to his use. No animals shall be allowed or kept in or upon any Unit.

2.5 Easement for Sales, Resales, Customer Service and Related Purposes. Declarant, on behalf of itself, its successors and assigns, and its and their respective agents, employees, contractors, subcontractors, invitees and other authorized personnel, reserves, for a period of ten (10) years following the Starting Date, an exclusive easement in, over and through the Units, and Undedicated Units, the Common Area and the Support Areas, for the purposes of: (1) marketing and selling Intervals; (2) maintaining customer relations and

providing post-sale service to Interval Owners; (3) displaying signs and erecting, maintaining and operating, for sales and administrative purpose, model Units and a customer relations, customer service and sales office complex in the Property; and (4) showing the Units, and the Common Area and arranging for the use of any recreational facilities within the Common Area by prospective purchasers. The use of such easement shall not interfere with or diminish the rights of Interval Owners to use and occupy Units in accordance with this Declaration and the Rules and Regulations, nor interfere with the Association's use of the Support Areas as necessary to perform its duties and obligations pursuant to the Declaration and the Rules and Regulations.

2.6 Rental of Undedicated Units by Declarant. Declarant shall have the exclusive right to occupy the Undedicated Units and to rent such Undedicated Units (together with the non-exclusive right to use and enjoy the Common Area) to the general public upon the following terms and conditions:

(a) All rents received from rentals pursuant to this paragraph shall inure to the benefit of the Declarant. Declarant shall bear all costs incurred in connection with the management and operation of the rental program conducted pursuant to this paragraph and shall be responsible for the repair and maintenance of the interior of the Undedicated Units or for any damage or destruction, to the extent not

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insured, caused to the Common Area by any person renting such Undedicated Unit.

(b) Declarant may, at Declarant's cost and expense, retain the Manager authorized by Paragraph 4.3 to operate and manage the rental program conducted pursuant to this paragraph. Separate books and records shall be maintained for the Resortshare Program from the books and records of the rental program conducted pursuant to this paragraph.

(c) Upon recordation of a Certificate of Dedication converting any Undedicated Unit to a Unit, Declarant shall either renovate the interior of the Undedicated Unit to a condition substantially the same as an unused Unit and shall replace the furnishings with new furnishings similar to the Common Furnishings or shall pay to the Association, if not already paid pursuant to the Subsidy Agreement referenced in Paragraph 5.10, an amount equal to the Reserve Expenses attributable to such Undedicated Unit for the repair, restoration or replacement of the interior of the Undedicated Unit and furnishings within such Undedicated Unit from the Starting Date to the date of recordation of the Certificate of Dedication.

(d) Declarant, on behalf of itself, its successors and assigns, and its and their agents, employees, contractors, subcontractors and other authorized personnel reserves an exclusive easement in gross in, over and through the Support Areas for the purpose of conducting rental activities and pursuant to this paragraph until such time, if

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at all, that Declarant shall assign to the Association its right to rent the Undedicated Units. The use of such easement shall not interfere with the Association's use of the Support Areas as necessary to perform its duties and obligations pursuant to the Declaration and Rules and Regulations.

2.7 Rental of Units by Declarant and Easement for Rental Program Operation. Declarant hereby reserves the exclusive right to occupy and to rent to the general public each Unit (together with the non-exclusive right to use and enjoy the Common Area) during all times not included in any Use Period of an Interval Owner upon the following terms and conditions:

(a) The right reserved by Declarant pursuant to this paragraph shall continue for so long as Declarant, or any entity owned or controlled by Declarant, or under common management and control with Declarant, is the Managing Agent for the Resortshare Program, or until Declarant shall, at its sole discretion, assign its rights under this paragraph to the Association. In addition, Declarant's rights pursuant to this paragraph shall be suspended in the event Declarant becomes in excess of sixty days delinquent with respect to any Assessment or Subsidy Agreement payment owed by it under the provisions of this Declaration and thereafter fail to pay any such delinquent Assessment or Subsidy Agreement payment within ten (10) business days following receipt from the Association of written notice to pay. An annual special vote of Interval Owners shall

be held on the question of whether to permit Declarant to continue the rental of Units to members of the general public, commencing at the earlier of the annual meeting of the Association following the date on which there have been sold Intervals representing at least 66-2/3rds percent of the total number of Intervals authorized for sale under the Subdivision Public Reports or Permits for the Property or the annual meeting of the Association immediately preceding the expiration date of the Management Agreement provided for by Paragraph 4.3. The special vote shall thereafter be conducted annually until Declarant's rights pursuant to this paragraph have been terminated or assigned to the Association. A vote of a majority of the Class A membership shall be required to terminate Declarant's rights pursuant to this paragraph.

(b) All rents received from rentals pursuant to this paragraph shall inure to the benefit of Declarant. Declarant shall reimburse the Association for costs and expenses incurred in connection with such rentals, pursuant to Paragraph 5.11(b), to the extent such costs and expenses exceed the expenses attributable to such use in the Budget paid as assessments to the Association, and the cost of repair or replacement of any damage or destruction to a Unit or the Common Furnishings therein which occurs during the rental of such Unit pursuant to this paragraph.

(c) Declarant shall submit to the Association not less than thirty (30) days before the scheduled mailing of

the Annual Report required by Paragraph 4.2(h), a report for the preceding Fiscal Year setting forth the amount of revenue derived by Declarant pursuant to this paragraph and the amount paid by Declarant to the Association as reimbursement.

(d) Declarant may reserve a Unit for rental to the public up to fourteen (14) days prior to the intended date of occupancy, provided that an Interval Owner's untimely request to reserve a Use Period within a Unit shall be honored if otherwise possible if such untimely request is received prior to the receipt of a reservation request for a public rental.

(e) Declarant on behalf of its agents, employees, contractors, subcontractors and other authorized personnel reserves a non-exclusive easement in gross in, over and through the Support Areas for the purpose of conducting rental activities pursuant to this paragraph.

(f) In no event shall Declarant make any rental for the account of any Interval Owner. Except for the rights reserved by Declarant pursuant to this paragraph, no third party, including, but not limited to the Association, the Managing Agent (other than as an agent for the Declarant) or any other person acting on their behalf shall have the right to rent any Unit to members of the general public, provided, that the foregoing shall not be construed to prevent an Interval Owner from renting such Interval Owner's Use or portion thereof



to a member of the general public for such Interval Owner's own account.

(g) No rental by Declarant made pursuant to this paragraph shall interfere with or diminish the rights of Interval Owners to use and occupy Units in accordance with this Declaration, the Rules and Regulations.

2.8 Use of Support Areas by the Association. Except as provided in Paragraphs 2.5, 2.6 and 2.7 above, the Association shall have the full and complete Use of the Support Areas and shall be responsible for maintaining the same in good condition and repair.

2.9 Transfer of Interest. No Interval Owner shall sell, convey, hypothecate or encumber less than all of his interest in his Interval. Any sale, conveyance, hypothecation or encumbrance by any Interval Owner of less than all of his interest in his Interval shall be null, void and of no effect. The transfer of any Interval shall operate to transfer to the new owner of the Interval the interest of the prior Interval Owner in all funds in the hands of the Association even though not expressly mentioned or described in the instrument of transfer and without further instrument of transfer.

2.10 Separate Mortgages. Each Interval Owner shall have the right to mortgage or otherwise encumber all, but not less than all, of his Interval. Any Mortgage shall be subordinate to all of the provisions of this Declaration, and in the event of foreclosure, the provisions of this Declaration

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shall be binding upon any Interval Owner whose title is derived through foreclosure by private power of sale, judicial foreclosure, assignment in lieu of foreclosure or otherwise. Notwithstanding any other provision of this Declaration, no breach of the provisions herein contained, nor the enforcement of any lien created pursuant to the provisions hereof shall defeat or render invalid the lien of any Mortgage of any Interval Owner's Interval if such Mortgage is recorded in the Office of the Douglas County Recorder, Nevada, and is given in good faith and for value.

2.11 Partition and Subordination of Tenancy-in-Common Attributes.

(a) It is intended that this Declaration alone shall govern all rights with respect to the use, possession, enjoyment, management and disposition of the Intervals conveyed by Original Deed and the Property. Accordingly, all rights with respect to the use, possession, enjoyment, management or disposition of an Interval conveyed by Original Deed or the Property which an Interval Owner might otherwise have as a tenant-in-common (including but not limited to any common law or statutory right jointly to use, possess or manage commonly owned property), are hereby unconditionally and irrevocably subordinated to this Declaration for so long as this Declaration shall remain in effect; provided, however, that in the event that an election to terminate this Declaration is made

pursuant to Paragraph 9.2 an Interval Owner shall have the rights specified in Paragraph 9.2.

(b) Except as provided in subparagraph 2.11(a), above, and Paragraph 9.2 below, no Owner or other person or entity acquiring any right, lien or interest in any of the Property shall seek or obtain, through any legal procedures, judicial partition of the Property or the sale thereof in lieu of partition. If, however, any Interval is owned by two or more persons as tenants-in-common, joint tenants or community property, nothing herein contained shall prohibit a judicial sale of the Interval in lieu of partition as between such co-tenants or joint tenants.

2.12 Protection of Interest. Except as provided in Paragraph 2.11, no Interval Owner shall permit his Interval to be subject to any lien (other than the liens of current real property taxes), claim or charge, the enforcement of which may result in a sale or threatened sale of the Interval of any other Interval Owner or any part thereof or in any interference in the use or enjoyment thereof by any other Interval Owner. In the event of a threatened sale of the Property or the Interval of any Interval Owner or any part thereof, or should the use and enjoyment of any portion thereof by any Interval Owner be threatened by reason of any lien, claim or charge against the Interval of any other Interval Owner, or should proceedings be instituted to effect any such sale or interference, any Owner acting on his own behalf or through the

Association or the Association acting on behalf of any one or more Owners (if promptly indemnified to his or its satisfaction) may, but shall not be required to, pay or compromise the lien, claim or charge without inquiry into the proper amount or validity thereof and, in such event, the Interval Owner whose interest was subjected to such lien, claim or charge shall forthwith pay the amount so paid or expended to the Owner or the Association, whomsoever shall have paid or compromised the lien, claim or charge, together with such reasonable attorneys' fees and related costs as he or it may have incurred. No Interval Owner shall permit his interest in any funds from time to time in possession of the Association to be subjected to any attachment, lien, claim or charge or other legal process and each Interval Owner shall promptly restore any funds held by the Association in respect of his Interval to the extent depleted by the reason of the assertion of any such attachment, lien, claim, charge or other legal process and shall reimburse the Association for all reasonable attorneys' fees or other costs incurred in respect thereof.

ARTICLE III

THE ASSOCIATION

3.1 Association. Kingsbury Crossing Owner's Association, a Nevada nonstock, nonprofit corporation, shall be the Association.

3.2 Membership in Association. Each Owner (including Declarant as to all Declarant Intervals) shall be a member of the Association and shall remain a member thereof until he ceases to be an Owner.

3.3 Transfer of Membership. The membership of each Interval Owner in the Association is appurtenant to and inseparable from his ownership of an Interval and shall be automatically transferred upon any authorized transfer or conveyance of the ownership of his Interval to any transferee or grantee and, except as provided herein, said membership shall be non-transferable whether by gift, bequest, assignment or otherwise.

3.4 Voting.

(a) Types of Membership. In accordance with the provisions of the By-Laws, the Association shall have two classes of voting membership:

(i) Class A Memberships. Class A Members shall be all Interval Owners, and shall be entitled to one vote for each Interval owned; provided, when more than one person or entity owns an Interval, all such persons and entities shall be members and the vote for such Interval shall be exercised as

they among themselves determine, but in no event shall more than one vote be cast with respect to any Interval.

(ii) Class B Memberships. The Class B Member shall be Declarant, who shall be entitled to one vote for each Declarant Interval owned. Declarant may assign or convey a Class B membership to the initial incorporators of the Association separate and apart from a Declarant Interval. Class B Memberships shall cease and be converted to Class A Memberships when the total votes held by the Class B Member equals less than 20% of the total votes outstanding in the Association.

(b) Voting. All votes required for action of the Association as set forth in this Declaration shall require:

(i) Prior to the conversion of Class B Membership to Class A Membership, (a) the vote or written assent of the prescribed percentage of total voting power of the Class A Members and (B) the vote or written assent of the Class B Member.

(ii) From and after the conversion of the Class B Membership to Class A Membership, (A) the vote or written assent of a prescribed percentage of the total voting power of the Association and (B) the vote or written assent of the prescribed percentage of the total voting power of members other than Declarant.

3.5 Board of Directors. The Board shall consist of Five members who shall initially be appointed by Declarant. At the time of the first annual meeting of the members, the members (including Declarant) shall elect without regard to classes of membership, and in accordance with the By-Laws, a Board replacing the initial Board as defined in the preceding sentence, provided that at the first election of the Board by the members of the Association and for so long as there are two outstanding classes of membership in the Association pursuant to Paragraph 3.4 hereof, not less than one of the directors shall be elected solely by the votes of members of the Association other than Declarant, pursuant to the special election procedures set forth in the By-Laws.

## ARTICLE IV

### MANAGEMENT

4.1 Powers and Duties Generally. Administration of the Resortshare Program, operation, maintenance, repair and restoration of the Property and the Common Furnishings, and any alterations and additions thereto, shall be vested in the Association. The Association, acting alone (through its Board, its officers, or other duly authorized representatives) may, subject to the provisions of the Articles, the By-Laws and this Declaration, exercise any and all rights and powers herein enumerated and, except as specifically limited herein, all the rights and powers of a non-profit corporation under the laws of the State of Nevada.

4.2 Specific Powers and Duties of the Association. The management and operation of the Property, the maintenance and repair of the Property, the acquisition (by purchase or lease), maintenance, repair and replacement of the Common Furnishings and the administration of the affairs of Interval Owners, the use and occupancy of the Units and payment, as agent, of expenses and costs enumerated in this Declaration shall be under the direction and control of the Association. The Association shall have the duty to maintain and repair the Property, to acquire (by lease or purchase), maintain, repair and replace Common Furnishings as needed, to administer the Resortshare Program as provided herein, to implement and administer the Traffic Mitigation Measures as set forth herein



and to levy, collect and enforce the "Assessments" (as hereinafter defined) enumerated in this Declaration. The Association shall have the exclusive possession of each Unit during the Service Periods for the performance of maintenance and repairs on such Unit. The Association shall annually compile a roster of the names and addresses of each of the Interval Owners (the "Roster"). Upon the written request of an Owner, the Association shall furnish such Owner with a copy of the Roster and may charge such Owner a reasonable fee therefor. Each Interval Owner who requests and receives a copy of the Roster hereby agrees that he will not make any commercial use of the Roster and will not distribute a copy of the Roster to any person who is not an Owner. The Association shall have the power to do all things that are required to be done by it pursuant to this Declaration. Without limitation of the foregoing powers and duties, the Association is expressly authorized in its discretion and on behalf of the Interval Owners to do any or all of the following:

(a) Maintenance and Repair. To repair, maintain, repaint, furnish or refurnish the Property or any part thereof except for the interior of Undedicated Units; to establish reserves for anticipated costs, including the costs of acquisition and replacement of Common Furnishings; and to acquire and pay for materials, supplies, furniture, furnishings, labor or services which the Association deems necessary or proper for the operation, maintenance and repair of the

Property and the Common Furnishings.

(b) Taxes and Assessments. As agent and not as principal, to pay all taxes and assessments, and other costs affecting or relating to the Property or Common Furnishings; and to discharge, contest or protest liens or charges affecting the Property.

(c) Utilities. To obtain and pay the costs of electrical, telephone, gas and other utility services for the Property.

(d) Rules and Regulations. To adopt, publish and enforce, from time to time, Rules and Regulations relating to the possession, use and enjoyment of the Property, which Rules and Regulations shall be consistent with the provisions of this Declaration.

(e) Legal and Accounting. To obtain and pay the cost of legal and accounting services necessary or proper in the operation, maintenance and repair of the Property and the enforcement of this Declaration, the By-Laws and the Rules and Regulations.

(f) Insurance. To obtain and pay the cost of the following insurance coverage.

(i) insurance covering the Property, the Common Furnishings and any of the contents against loss or damage by fire and other hazards customarily covered by fire insurance policies written with extended coverage, the amount of such insurance to be not less than 80% of the aggregate full

insurable value thereof, which insurance policy or policies shall name the Association as a co-insured, for itself and as agent for each Owner.

(ii) general comprehensive public liability insurance against claims for personal or bodily injury, death or property damage with limits with regard to injury or death of not less than One Million Dollars (\$1,000,000) for injury or death and with limits of not less than One Hundred Thousand Dollars (\$100,000) per occurrence in respect of property damage, insuring against liability for bodily injury, death and property damage arising from the use, ownership and maintenance of the Property and the Common Furnishings. Said liability insurance shall name all Interval Owners (as a class) as additional insureds. Said liability insurance shall contain appropriate waivers of subrogation against any Interval Owner or member of such Interval Owner's household, and a provision that no act or omission by an Interval Owner, unless acting within the scope of his authority on behalf of the Association, will void the policy or operate as a condition to recovery by any other person under such policy; and

(iii) any other insurance, including, but not limited to, Workers' Compensation Insurance Business interruption insurance or Directors liability insurance deemed necessary or desirable by the Association.

Except as otherwise specified in this subparagraph 4.2(f), the policies of insurance shall cover such risks,

be written by such insurers, and be in such amounts as the Association shall deem proper under the circumstances.

(q) Levy and Collection of Assessments. To compute, levy, collect and enforce Assessments against the Owners in the manner provided in ARTICLES V and VI hereof in order to pay the expenses of the Resortsharing Program including the fee of the Managing Agent; and to do all things necessary to enforce each Owner's obligations hereunder.

(h) Financial Statements and Audit. To cause to be regularly prepared financial statements for the Association and copies thereof distributed to all members as follows:

(i) A pro forma operating statement (the "Budget") of expenses for the Property for each Fiscal Year which operating statement shall be distributed to Interval Owners not less than 60 days before the beginning of each Fiscal Year, except the first Fiscal Year with respect to which the Budget shall be distributed as soon as reasonably possible.

(ii) An annual report shall be distributed, within 120 days after the end of each Fiscal Year, consisting of the following: (a) a balance sheet as of the last day of such Fiscal Year, (b) an operating (income) statement for such Fiscal Year, (c) a statement of changes in financial position for such Fiscal Year, (d) any information required to be reported under any provisions of applicable law and (e) a list

of the names, mailing addresses and telephone numbers of the members of the Board. The annual report shall be prepared by an independent accountant in any Fiscal Year in which the gross income to the Association exceeds \$25,000.00. If the annual report is not prepared by an independent accountant, the annual report shall be prepared by the Managing Agent or by an officer of the Association and shall be accompanied by the certificate of the person preparing the report that the statements were prepared without audit from the books and records of the Association.

(i) Bank Accounts. To deposit (a) all funds collected from Owners pursuant to ARTICLE V hereof and Paragraph 2.3, and (b) all other amounts collected by the Association in connection with its rights and duties provided herein, as follows:

(i) All funds shall be deposited in a separate bank account or accounts (the "General Account") with a bank or savings and loan association located in the State of Nevada selected by the Association. Funds deposited in the General Account(s) may be used by the Association only for the purposes for which such funds have been collected.

(ii) Funds which the Association shall collect pursuant to Paragraph 5.13 shall, within 10 days after deposit in the General Account, be deposited in an account (the "General Fund Account") with a bank or savings and loan association in the State of Nevada selected by the Association, and

the Association shall keep accurate books and records reflecting the amount in the General Fund Account attributable to each Interval Owner. Funds deposited in the General Fund Account shall be held in trust and may be used by the Association only for the purposes for which such general Fund has been collected.

(iii) Funds which the Association shall collect for "Reserve Expenses" shall, within 10 days after deposit in the General Account, be deposited in an interest bearing account with a bank or savings and loan association selected by the Association or invested in Treasury Bills or Certificates of deposit (said interest bearing bank or savings and loan account or Treasury Bills or Certificates of Deposit are all herein collectively referred to as the "Reserve Account"), and the Association shall keep accurate books and records reflecting the amount in the Reserve Account attributable to each Interval Owner. Funds deposited in the Reserve Account shall be held in trust and may be used by the Association only for the specific purposes for which such funds have been collected.

(j) Statements of Status. Upon the request of any Owner, Mortgagee, prospective Mortgagee, purchaser or other prospective transferee of an Interval, to issue a written statement setting forth any amounts unpaid with respect to the Interval, the use entitlement for the remainder of the Interval Owner's Use Year and the reservation status respecting such

Interval. Such statement, for which a reasonable fee may be charged, shall be binding upon the Association in favor of any person who may rely thereon in good faith.

(k) Cleaning and Maid Service. To provide for cleaning and maid service upon the departure of each Interval Owner or other occupant of the Unit and during Service Periods so that the Units are maintained in good order and repair. In addition to cleaning and maid service that is normally provided to each Unit, to provide such cleaning and maid services as shall reasonably be requested by Interval Owner.

(l) Right of Entry. During Service Periods and at any other reasonable time, upon giving reasonable notice if a Unit is occupied, to enter the Unit for the purpose of cleaning, maid service, painting, maintenance and repair, and to enter upon and within any Unit or Undedicated Unit, at any reasonable time, whether or not during a Service Period and whether or not in the presence of an Interval Owner, for the purpose of (i) making emergency repairs therein, (ii) abating any nuisance or any dangerous, unauthorized, prohibited or unlawful activity being conducted or maintained in such Unit or Undedicated Unit, (iii) protecting property rights and welfare of the other Interval Owners, or (iv) for any other purpose reasonably related to the performance by the Association of its responsibilities under the terms of this Declaration. Such right of entry shall be exercised in such a manner as to avoid any unreasonable or unnecessary interference with the posses-

sion, use and/or enjoyment of the Interval Owner, his Permitted User or any other occupant of a Unit or Undedicated Unit, and shall be preceded by reasonable notice to the Interval Owner or occupant thereof whenever the circumstances permit.

(m) Minutes and Agenda. To provide each Interval Owner with (i) a copy of the minutes of the Board meetings within 60 days following the date of such meeting and (ii) a list of the orders of business to be considered at the annual meeting of the Association not later than 30 days nor earlier than 90 days prior to the date of such meeting, which list shall contain the name, address and a brief biographical sketch (if available) of each person, if any, nominated to stand for election to the board.

(n) Traffic Mitigation Measures. To impliment and administer the Traffic Mitigation Measures, to conduct traffic monitoring and to prepare reports as required by ARTICLE VIII hereof.

(o) As agent and not as principal, to pay all district service fees, registration fees and renewal fees accruing each year on the Property, the Common Furhishings and the Resortshare Program.

(p) Other Necessary Acts. To do all other things or acts deemed by the Association to be necessary, desirable or appropriate for the operation and maintenance of the Resortshare Program.

(q) Delegation. To delegate the authority and



responsibilities of the Association hereunder to one or more agents, including, without limitation, the Managing Agent provided for in Paragraph 4.3 below.

4.3 Authority and Duty to Engage Managing Agent.

The Association shall have the authority to engage and the obligation to use its best efforts to engage and maintain a reputable firm as the Managing Agent for the Property and the operation of the Resortshare Program pursuant to a written agreement (the "Management Agreement") meeting the requirements of this Paragraph 4.3. Each Management Agreement shall:

(a) Authorize and obligate the Managing Agent to perform all the duties and obligations of the Association specified in Paragraph 4.2 above; provided, however, that the Managing Agent may delegate its authority and responsibilities to one or more sub-agents for such periods and upon such terms as the Managing Agent deems proper, subject to the limitations set forth in Paragraph 4.4 below.

(b) Provide for a term of not more than three years, except that the Management Agreement may provide that the term will be automatically renewed for successive one-year terms unless notice of non-renewal is given by either party not then in default thereunder no later than 90 days prior to the end of any term; provided, however, the Association may not give notice of non-renewal unless authorized by the vote or written consent of a majority of the Class A members. The Management Agreement shall be subject to termination by the

Association as follows:

(i) At any time, for cause.

(ii) Upon the request to do so by the vote or written request of a majority of the members of the Association.

In the event that the Managing Agent shall dispute a termination by the Association pursuant to subparagraph 4.3(b)(i), the dispute shall be submitted to arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association.

(c) Provide that the Managing Agent may resign only upon compliance with the following conditions:

(i) The Managing Agent shall have given at least 90 days prior written notice to the Association.

(ii) Prior to or at the expiration of the period of such a notice (not less than 90 days) the Association shall have entered into a management agreement with another management firm meeting the requirements of this Paragraph 4.3 of the Declaration or shall have made a determination to discharge the duties delegated to Managing Agent hereunder with its own personnel; provided, however, that if the Association shall fail to make reasonable efforts to meet the foregoing requirements during such 90 day period, Managing Agent's resignation shall be effective at the end of such 90 day period. If the Association has made reasonable efforts during such 90 day

period to satisfy such requirements and has not entered into such a management agreement or determined to discharge the duties delegated to Managing Agent hereunder with its own personnel, and thereafter continues to use reasonable efforts to discharge such requirements, the resignation of the Managing Agent shall not be effective until such a new management agreement is entered into between the Association and a new management firm or the Association has determined to discharge such duties with its own personnel.

(iii) On or before the effective date of the Managing Agent's resignation, the Managing Agent shall turn over all books and records relating to the management and operation of the Property and the operation of the Resortshare Program to the successor Managing Agent.

(d) Provide for compensation to be paid to the Managing Agent not to exceed 10% of the Expenses, including Tax Expenses and Reserve Expenses, but excluding the fee to the Managing Agent. Such compensation may be increased if authorized by the vote or written consent of a majority of the members of the Association or, if, despite the failure to obtain such vote or written consent after requesting the same, the Association is unable to procure a reputable and experienced real estate management firm to act as Managing Agent without increasing such compensation.

(e) The Association shall cause the Managing Agent and any employee of either the Managing Agent or the Association who has charge of the Owners' funds to be bonded.

(f) The Association shall cause the Managing Agent to be covered by errors and omissions insurance if available, within such limits as may be acceptable to the Board.

(g) Provide that the Managing Agent may cooperate in the administration of any independent exchange program.

(h) Provide that the Managing Agent may contract with the Declarant to perform services for Declarant in connection with the public rentals pursuant to Paragraphs 2.6 and 2.7 hereof.

The first Managing Agent (the "Manager") shall be appointed by Declarant and may be Declarant or an affiliate of Declarant.

4.4 Limitation on Powers of the Association and the Managing Agent. Notwithstanding the powers of the Association as set forth in Paragraphs 4.1 and 4.2, neither the Association (nor the Managing Agent as the delegee of the Association's powers and duties) shall enter into a contract with a third person or entity whereby such person or entity will furnish goods or services for the operation of the Resortshare Program or to the Property for a term longer than one year unless authorized by the vote or written consent of a majority of the members of the Association, except for:

(a) The Management Agreement.

(b) A contract with a public utility company if the rates charged for the materials or services are regulated by the State of Nevada or a division thereof; provided,

however, that the term of the contract shall not exceed the shortest term for which the supplier will contract at the regulated rate.

(c) Prepaid casualty and/or liability insurance policies not to exceed three years duration provided that the policy permits short-rate cancellation by the insured.

(d) A lease of Common Furnishings.

4.5 Limited Liability Neither the Association nor the Managing Agent shall be responsible for the acts, omissions or conduct of any of the Interval Owners or for the breach of any of the obligations of any of the Interval Owners.

ARTICLE V

ASSESSMENTS

5.1 Covenant to Pay Assessments. Declarant hereby covenants for each Declarant Interval owned by it and each Interval Owner accepting conveyance of an Interval, whether or not it shall be so expressed in the Original Deed, shall be deemed to have covenanted and agreed, for each Interval owned, to pay the Association the Assessments as hereinafter described, which shall be established, made and collected as hereinafter provided. The Assessments, together with interest, costs and reasonable attorney's fees shall be the personal obligation of each Interval Owner at the time the Assessment becomes due and payable and shall be a lien and charge on the Interval against which the Assessment is made. A personal obligation for delinquent Assessments shall not pass to successors in title unless expressly assumed by them. No Interval Owner may waive or otherwise avoid liability for the Assessments by non use of his Interval or any part thereof or any abandonment thereof.

5.2 Types Of Assessments. During any Fiscal Year in which there is no Subsidy Agreement as referenced in Paragraph 5.10 hereof benefitting the Association and Declarant's right to conduct a public rental program pursuant to Paragraph 2.6 hereof have not been relinquished or otherwise terminated, the Assessments shall be made and assessed pursuant to Paragraph 5.4 hereof. During any other Fiscal Year, the Assessments

shall be made and assessed as provided in Paragraph 5.6 hereof.

5.3 Purpose of Assessments. Class II Assessments, as defined below, shall be used exclusively to repair, maintain and improve the Property. Class I Assessments, as defined below, shall be used exclusively to promote the recreation, health, safety and welfare of the Interval Owners, the operation, maintenance and improvement of the Property to the extent not paid for by the Class II Assessments (other than for Reserve Expenses or maintenance expenses for the interior of Undedicated Units) and to pay for the administration of the Resortshare Program and reimbursement of expenses incurred by the Association and other expenditures incurred in the performance of the duties of the Association as set forth in this Declaration. In any year in which there are not two classes of assessments, the Assessments shall be used exclusively for the purposes set forth above for the Class I and the Class II Assessments.

5.4 Class Assessments. During any year in which there are two classes of assessments, the two classes shall be assessed as follows:

(a) The Class I Assessments shall be assessed against all Intervals and against all Declarant Intervals within Units. Declarant Intervals within Units means the difference between (i) the number of Units designated as a Unit by recordation of a Certificate of Dedication) multiplied by 51

and (ii) the number of Intervals conveyed by Original Deed.

(b) The Class II Assessments shall be assessed against all Intervals and against all Declarant Intervals.

(c) It is the intention that the Class II Assessments shall include appropriate charges for operating and maintaining the Property and for reserves to the extent such charges are uniform for all Units and Undedicated Units, regardless of use in a rental program or the Resortshare Program. The Class II Assessments shall exclude any charge chargeable to the operation of the Resortshare Program or to the rental of Undedicated Units pursuant to Paragraph 2.6 hereof. It is the further intention that the Class I Assessments shall include any additional charges chargeable to the operation of the Resortshare Program.

5.5 Class Assessments Defined: The Class I Assessments and the Class II Assessments shall include the charges set forth in this paragraph:

(a) Class II Assessments includes the estimated aggregate amount of expenses, as set forth in the Budget, to be incurred by the Association during the applicable Fiscal Year (the Class II Expenses):

(i) To operate, maintain, repair and improve the Property (excluding the operation, maintenance, repair, improvement and management of the interior of any Unit or Undedicated Unit) and the Common Area.

(ii) To provide for reserves to insure



payment when due of the cost of capital expenditures relating to the repair or restoration of the Property (excluding the repair or restoration of the interior of any Unit or Undedicated Unit) and the Common Area (the Reserve Expenses).

(iii) To provide for insurance, including fire and casualty insurance insuring the Property, obtained pursuant to this Declaration but excluding any business interruption insurance, director's liability insurance or other insurance exclusively benefitting the Resortshare Program, the Association or the Internal Owners.

(iv) To provide for the establishment, maintenance and operation of the Traffic Mitigation Measures as set forth in ARTICLE VIII.

(v) To provide for the payment of ad valorem real property taxes (the Tax Expenses).

(vi) To provide for the payment of the fee of the Managing Agent in the proportion that the Class II Assessments bear to the total of the Class II Assessments and the Class I Assessments.

(b) Class I Assessments includes, to the extent not included as Class II Assessments, the estimated aggregate amount of expenses, as set forth in the Budget to be incurred by the Association during the applicable Fiscal Year (the Class I Expenses):

(i) To operate, maintain, repair, improve, and manage the interior of the Units, the Common Furnishings

and to administer the Resortshare Program.

(ii) To provide reserves to insure payment when due of the cost of capital expenditures relating to the repair or restoration of the interior of the Units and the Common furnishings, and for such other purposes as are required by good business practices. (The Reserve Expenses)

(iii) To provide for an account for the possibility that some Class I Assessments may not be paid on a current basis.

(iv) To maintain the General Fund Account at the level determined by the Association as provided in Paragraph 5.13.

(v) To provide for the payment of the fee of the Managing Agent in the proportion that the Class I Assessments bear to the total of the Class II Assessments and Class I Assessments.

(vi) To provide for the payment of taxes assessing the Common Furnishings or any other interest of Interval Owners, except to the extent such taxes are ad valorem real property taxes, are separately assessed against the Interval Owners, or are transient occupancy taxes or other similar taxes charged or levied on the Interval Owners use of the Property.

(vii) To provide for business interruption insurance, director's liability insurance or other insurance exclusively benefitting the Resortshare Program or the

Association.

(c) The allocation of expenses as charges to the Class I Assessments or to the Class II Assessments shall be made by the Managing Agent. Either Declarant or Association, acting through the Board, may demand that the allocation be arbitrated pursuant to the then current rules of the American Arbitration Association. The cost of arbitration shall be split equally between Declarant and the Association.

5.6 Single Class Assessments. During any Fiscal Year in which there are not two classes of assessments, a single uniform assessment shall be assessed against all Intervals and against all Declarant Intervals. The Assessment shall be based upon the "Total Expenses" which includes each item of expense included in either the Class II Assessments or the Class I Assessments, and in addition thereto, the following expenses to be incurred by the Association during the applicable Fiscal Year: (i) to operate, maintain, repair and improve the interior of the Undedicated Units; (ii) to provide for reserves to insure payment when due of the cost of capital expenditures relating to the repair or restoration of the interior of any Undedicated Unit. The single assessment shall be computed as though all dwelling units are Units.

5.7 Computation of Assessments:

(a) During any Fiscal Year in which there are two classes of Assessments, the Class Assessments shall be computed as follows:

(i) The Class I Assessments against each Interval and against each Declarant Interval within a Unit shall be an amount equal to the quotient determined by dividing the Class I Expenses attributable to such Fiscal Year (less the "B Unit Type Surcharge", as defined below), by the total number of Intervals and Declarant Intervals within Units.

(ii) The Class II Assessments against each Interval and against each Declarant Intervals shall be an amount equal to the quotient determined by dividing the Class II Expenses attributable to such Fiscal Year by the total number of Intervals and Declarant Intervals.

(b) During any Fiscal Year in which there are not two classes of assessments, the Assessments against each Interval and against each Declarant Interval shall be an amount equal to the quotient determined by dividing the Total Expenses attributable to such Fiscal Year (less the "B Unit Type Surcharge", as defined below), by the total number of Intervals and Declarant Intervals.

(c) The "B Unit Type Surcharge" shall be an aggregate amount as determined by the Association which shall be paid by Interval Owners reserving a B Unit Type in accordance with the Rules and Regulations. In determining such amount, the Association shall establish a charge for each projected reservation of a B Unit Type to be paid by the Interval Owners reserving a B Unit Type which will discourage the reservation of B Unit Types by those Interval Owners not

needing a B Unit Type, but which will encourage full utilization of the B Unit Types. Such amount need not be an estimate of the actual expenses incurred in connection with the operation, maintenance or repair of B Unit Types. The Association may from time to time modify or alter such charge to reduce a surplus or deficit in Assessments resulting from excessive or insufficient reservations of B Unit Types.

5.8 Limitation on Assessments. The Assessments (including the B Unit Type Surcharge) other than Special Assessments or Personal Charges on the Tax Expense, shall not be imposed in an amount more than 20% greater than such assessments for the immediately preceding Fiscal Year unless approved by the vote of a majority of the members.

5.9 Payment of Assessments. The Assessments shall be paid as follows:

(a) For Fiscal Year in which an Interval Owner becomes such, as provided in the Purchase Agreement.

(b) For each Fiscal Year thereafter, the Assessment shall be payable with respect to Intervals other than Declarant Intervals in one lump sum due on or before the date determined by the Association or, if the Association shall elect, in periodic installments payable not more frequently than monthly.

(c) For each Fiscal Year in which there is no Subsidy Agreement between Declarant and the Association, Declarant shall pay the Assessments to the Association in 12

equal monthly installments, commencing on January 1 of each Fiscal Year and continuing on the first day of each month thereafter until paid; provided, however, that Declarant's obligations for the payment of the Assessments attributable to a Declarant Interval shall cease upon the conveyance of an Interval by Original Deed to a third party.

(d) That portion of the Assessment which is attributable to Reserve Expenses shall be deposited in the Reserve Account provided for in subparagraph 4.2(i).

5.10 Subsidy Agreement. Notwithstanding any other provision of this ARTICLE V to the contrary, Declarant may enter into a Subsidy Agreement with the Association pursuant to which it agrees to pay to the Association the difference between the actual costs incurred by the Association and the Assessments paid or payable by the Interval Owners. Such Agreement shall be in a form acceptable to governmental entities having jurisdiction over the Property and the Resort-share Program.

5.11 Special Assessments.

(a) If the Assessment with respect to any Interval is, or will become, inadequate to meet all expenses incurred by the Association hereunder (other than for items constituting Personal Charges) for any reason, including nonpayment by any Interval Owner of Assessments on a current basis, the Association shall immediately determine the approximate amount of such inadequacy, prepare and distribute a

supplemental budget and levy against each Owner a special assessment (the "Special Assessment") in an amount sufficient to provide for such inadequacy; provided, however, that without the vote or written assent of a majority of members of the Association, Special Assessments shall not, in the aggregate, exceed 5% of Expenses for the applicable Fiscal Year.

(b) The amount necessary to reimburse the Association for costs incurred in connection with rentals conducted by Declarant pursuant to Paragraph 2.7 shall be levied against all Declarant Intervals within Units.

(c) No such vote or written assent shall be required in order for the Association to levy a Special Assessment in excess of the limitation set forth in Paragraph 5.11(a) where the reason for such Special Assessment is an increase in the real property taxes levied against the Property or reimbursement pursuant to Paragraph 5.11(b). Any Special Assessment shall be payable in one lump sum or periodically, as determined by the Association and shall be payable within 15 days after receipt of a statement therefor.

5.12 Personal Charges. The term "Personal Charges" means: (i) any expense resulting from the act or omission of any Interval Owner, Permitted User or Exchange User, including, without limitation: the cost of long distance telephone charges or telephone message unit charges any option maid service and other special services or supplies attributable to the occupancy of the Unit during such Interval Owner's Use

Period; the cost to repair any damage to the Unit, to repair or replace any Common Furnishings located therein or the common Area on account of loss or damage occurring during such Interval Owner's Use Period; and the cost to satisfy any expense to any other Interval Owner(s) or to the Association due to any intentional or negligent act or omission of such Interval Owner, Permitted User or Exchange User, or resulting from the breach of such Interval Owner, Permitted User or Exchange User of any provisions of this Declaration, the By-Laws or the Rules and Regulations; (ii) amounts debited against the Interval Owner's interest in the General Fund Account pursuant to the provisions of Paragraph 5.13; and (iii) any transient occupancy tax levied by Douglas County or the State of Nevada or any similar authorizing statute hereafter enacted payable by any Interval Owner which the Association is or shall be required or entitled to collect. For purposes of this Paragraph 5.12, the act or negligence of a Permitted User shall be deemed to be the act of the Interval Owner. Personal Charges shall also include amounts debited against an Interval Owner's interest in the General Fund Account pursuant to the provisions of Paragraph 5.13 below. Such Personal Charges shall be paid by each Interval Owner as follows:

(a) If the Association is able to determine the amount of Personal Charges at Check-Out-Time (for example, Personal Charges constituting long distance telephone charges, optional maid service, etc.), such Personal Charges shall be



payable at the termination of the Interval Owner's Use Period.

(b) Personal Charges constituting a transient occupancy tax shall be payable in periodic installments, not more frequently than monthly, or in one lump sum, as the Association may from time to time determine, and shall be payable within 15 days after receipt of a statement therefor.

5.13 General Fund. Each Interval Owner shall be required to pay to the Association an amount equal to \$50.00, which amount shall be retained by the Association in the General Fund Account and used to pay any expenses (other than capital expenditures) which may arise in connection with the operation of the Resortshare Program and for which the Assessment and any Special Assessment prove to be inadequate. Said sum of \$50.00 shall be paid by each Interval Owner other than Declarant upon execution of the Purchase Agreement. Declarant shall not be required to pay any amount as and for the General Fund provided that the Subsidy Agreement referred to at Paragraph 5.10 shall remain in effect. Upon termination of the term of the Subsidy Agreement, Declarant shall either (i) pay to the Association an amount equal to \$50.00 multiplied by the number of Declarant Intervals then owned by Declarant or (ii) obtain a bond to secure the payment of Declarant's proportionate share of any amounts payable out of the General Fund Account. For so long as such a Subsidy Agreement shall remain in effect, the Assessment against Interval Owners other than Declarant shall include an amount sufficient to maintain the

balance in said General Fund Account at an amount equal to \$50.00 (or such greater sum which the Association shall from time to time determine) multiplied by the number of Intervals conveyed to third parties by Original Deed. Upon the termination of the term of such Subsidy Agreement, and provided no bond is obtained by Declarant as provided herein, the Assessments against all Owners, including Declarant, shall include an amount sufficient to maintain the balance in the General Fund Account at an amount equal to \$50.00 (or such greater sum which the Association shall from time to time determine) multiplied by the total number of Intervals and Declarant Intervals. The Association may debit the interest of an Interval Owner in the General Fund Account in an amount equal to any Assessment(s) or other amount(s) due from such Interval Owner and which are then delinquent, and thereupon withdraw from the General Fund Account an amount equal to such debit and apply the same in payment of such Assessment(s) or any other sum(s) due hereunder. The amount(s) so debited shall constitute a Personal Charge payable by such Interval Owner upon demand and enforceable by the Association in accordance with the provisions of this Declaration.

## ARTICLE VI

### ENFORCEMENT OF RESTRICTIONS

6.1 In General. In the event that any Interval Owner or his Permitted User(s) fails to comply with any of the provisions of this Declaration, the By-Laws and the Rules and Regulations, the Association or any other Owner(s) shall have full power and authority to enforce compliance with this Declaration, the By-Laws and the Rules and Regulations in any manner provided for herein, by law or in equity, including, without limitation, the right to enforce the Declaration, the By-Laws and the Rules and Regulations by bringing an action for damages, an action to enjoin the violation or specifically enforce the provisions of this Declaration, the By-Laws and the Rules and Regulations, to enforce the liens provided for herein and any statutory lien provided by law, including the foreclosure of any such lien and the appointment of a receiver for an Interval Owner and the right to take possession of the Interval of any Interval Owner in any lawful manner. In the event the Association or any Owner(s) shall employ an attorney to enforce the provisions of this Declaration, the By-Laws or the Rules and Regulations against any Interval Owner, the party engaging the attorney shall be entitled to recover from the Interval Owner violating any such provisions reasonable attorneys' fees and costs in addition to any other amounts due as provided for herein. All sums payable hereunder by an Interval Owner shall bear interest at 10% per annum from the due date, or if

advanced or incurred by the Association, or any other Owner pursuant to authorization contained in this Declaration, commencing 10 days after repayment is requested. All enforcement powers of the Association shall be cumulative. Each Interval Owner by accepting the conveyance of an Interval shall be deemed to have covenanted and agreed that the Association shall have all of the rights, powers and remedies set forth in this ARTICLE VI and elsewhere in this Declaration.

6.2 Certain Specific Enforcement Powers. In amplification of, and not in limitation of, the general powers specified in Paragraph 6.1 above, the Association shall have the following rights and powers:

(a) Suspension of Privileges. If any Interval Owner or his Permitted User shall be in breach of this Declaration, the By-Laws or the Rules and Regulations, subject to the limitations hereinafter in this subparagraph 6.2(a) set forth, the Association may suspend the right of such Interval Owner and his Permitted User(s) to reserve and/or occupy any Unit and the right of such Interval Owner to participate in any vote or other determination provided for herein. No such suspension, except a suspension of privileges for the failure of such Interval Owner to pay any Assessments, any portion thereof or any other amount(s) due hereunder on or before the due date therefor, shall be made except after a meeting of the Board at which a quorum of the Board is present, duly called and held for such purpose in the same manner as provided in the

By-Laws for the noticing, calling and holding of a meeting of the Board. Written notice of such meeting and the purpose thereof, including the reasons for the suspension sought, shall be given to the Interval Owner whose privileges are being sought to be suspended at least 15 days prior to the holding of such meeting. Such notice shall be given as provided at Paragraph 9.3 below. Such Interval Owner shall be entitled to appear at such meeting and present his case as to why his privileges should not be suspended. The decision as to whether such privileges should be suspended shall be made by a majority of the members of the Board present at such meeting. Written notice of suspension, the reasons therefor and the length thereof shall be given to the suspended Interval Owner and the suspension shall become effective on the date such notice is given. If such suspension of privileges is based on the failure of an Interval Owner to pay Assessments or any other amount(s) due hereunder when due, the suspended privileges of such Interval Owner shall be reinstated automatically at such time as the Interval Owner shall have paid to the Association, in cash or by cashier's or certified check, all amounts past-due as of the date of such reinstatement. If such suspension of privileges is based on any act or omission other than the failure of an Interval Owner to pay Assessments or any other amount(s) due hereunder when due, the suspended privileges shall be automatically reinstated upon the expiration of the suspension period stated in the suspension notice.

(b) Enforcement by Lien. There is hereby created a claim of lien, with power of sale, on each and every Interval to secure the prompt and faithful performance of each Interval Owner's obligations under this Declaration, the By-Laws and the Rules and Regulations and the payment to the Association of any and all Assessments levied against any and all Intervals under this Declaration, together with interest thereon at 10% per annum from the date of delinquency, and all costs of collection which may be paid or incurred by the Association in connection therewith, including reasonable attorneys' fees. At any time within 90 days after the occurrence of any default in the payment of such Assessment or performance secured, the Association or any authorized representative may, but shall not be required to make a written demand for payment or performance to the defaulting Interval Owner. Said demand shall state the date and amount of the delinquency or the particular performance with respect to which the Interval Owner is in default. Each default shall constitute a separate basis for a demand or claim of lien or a lien, but any number of defaults may be included within a single demand or claim of lien. If such delinquency is not paid or default is not cured within 10 days after delivery of such demand, or within 100 days after the date of delinquency or default if no written demand is made, the Association may elect to file and record a notice of default and claim of lien (with a copy to the Mortgagee of such defaulting Interval Owner if

such Mortgagee has requested a copy and furnished its name and address to the Association) on behalf of the Association against the Interval of the defaulting Interval Owner in the Office of the Douglas County Recorder. Such a notice of default and claim of lien shall be executed and acknowledged by any officer of the Association, and shall contain substantially the following information:

(a) the name of the defaulting Interval Owner;

(b) the total amount of the delinquency, interest thereon, collection costs and reasonable attorneys' fees and monetary penalties imposed by the Association;

(c) that the notice of default and claim of lien is made by the Association pursuant to this Declaration; and

(d) that a lien is claimed and will be foreclosed against the Interval in an amount equal to the amount stated.

Upon such recordation of a duly executed original or copy of such a notice of default and claim of lien, and mailing a copy thereof to the defaulting Interval Owner, the lien claimed therein shall immediately attach and become effective. Any such lien may be foreclosed by appropriate action in court or in the manner provided by law for the foreclosure of a deed of trust by exercise of a power of sale contained therein or in the manner provided by law for the enforcement of a judgment as

the laws of the State of Nevada may from time to time be changed or amended. The Association shall have the power to bid in at any foreclosure sale, trustee's sale or judgment sale and to purchase, acquire, lease, hold, mortgage and convey any Interval acquired at such sale, subject to the provisions of the Declaration. Reasonable attorneys' fees, court costs, title search fees, interest and all other costs and expenses shall be allowed to the extent permitted by law.

The proceeds of any foreclosure, trustee's or judgment sale provided for in this Declaration shall first be paid to discharge court costs, court reporter charges, reasonable attorneys' fees, title costs and costs of the sale, and all other expenses of the proceedings and sale, and the balance of the proceeds, after satisfaction of such charges and unpaid Assessments hereunder or any liens, shall be paid to the defaulting Interval Owner. The purchaser at any such sale shall obtain title to the Interval free from the sums or performance claimed (except as stated in this subparagraph) but otherwise subject to the provisions of this Declaration, the By-Laws and the Rules and Regulations; and no such sale or transfer shall relieve such Interval or the purchaser thereof from liability for any Assessments, other payments or performance thereafter becoming due or from the lien therefor as provided for in this subparagraph. All sums assessed hereunder but still unpaid shall remain the obligation of and shall be payable by the person foreclosed upon; but if such sum should



prove uncollectable, then it shall be deemed to be an expense, collectable from all of the other Interval Owners, including the purchaser thereof at foreclosure, and shall be shared among such Interval Owners in the same manner as other Expenses are shared.

Upon the timely curing of any default for which a notice or claim of lien was filed by the Association, the officers of the Association are hereby authorized to record an appropriate release of such lien in the Office of the Douglas County Recorder.

6.3 Subordination to Certain Mortgages. The lien provided for herein shall be prior to all encumbrances made by an Interval Owner or imposed by legal process upon any Interval Owner except taxes, bonds, assessments and other levies, which by law, are prior thereto, whether the notice of lien is recorded prior or subsequent to any such encumbrances, except that the lien provided for herein shall be subordinate to the lien of any first Mortgage and any other Mortgage held by the holder of the first Mortgage made in good faith and for value and recorded in the Office of the Douglas County Recorder, State of Nevada, prior to the recordation of a notice of lien hereunder (individually and collectively the "Prior Mortgage"). The sale or transfer of any Interval shall not defeat or affect the lien provided for herein; provided, however, that the sale or transfer of any Interval which is subject to any Prior Mortgage pursuant to a foreclosure or any proceeding in lieu of

foreclosure under such prior Mortgage shall extinguish the lien provided for herein as to payments which became due prior to such sale or transfer. No such sale or transfer shall relieve such Interval or the purchaser thereof from liability for any Assessment(s) thereafter becoming due or from the lien thereof.

COPY

## ARTICLE VII

### DAMAGE, DESTRUCTION, CONDEMNATION

7.1 In General. In the event of any damage or destruction, whether resulting from an insured casualty, uninsured casualty or a partial taking in eminent domain proceeding to the Property or the Common Furnishings other than by ordinary wear and tear, the Association, subject to the provisions of Paragraph 7.2, shall cause such damage or destruction to be repaired promptly and shall use any available insurance or condemnation proceeds for such purpose. If the damage is not covered by condemnation proceeds or by insurance proceeds, or if the available insurance or condemnation proceeds are insufficient, the Association shall, subject to the provisions of Paragraph 7.2 and the next succeeding sentence, levy against each Owner a Uniform Special Assessment for each Interval or Declarant Interval owned aggregating the amount required to meet the cost of such repair or restoration. In the event the damage or destruction was caused by the intentional or negligent act or omission of an Interval Owner or his Permitted User(s), the cost of such repair or the amount of such deficiency shall be a Personal Charge and paid by such Interval Owner as provided in Paragraph 5.12 above.

7.2 Extensive Damage or Destruction. In the event the aggregate amount of the Special Assessment which is required to be levied pursuant to Paragraph 7.1 above, shall exceed 20% of the then cost to repair such damage or destruc-

tion, such Special Assessment shall not be levied unless such Special Assessment is approved by the vote or written consent of a majority of members of the Association. If such Special Assessment is not so approved or if no action is taken with respect to such Special Assessment within 180 days following the date of such damage or destruction, such disapproval or inaction shall be deemed to be an election to terminate this Declaration, in which event this Declaration shall terminate upon the consummation of the sale of the Property, pursuant to subparagraph 9.2(b) below, and the recordation of an amendment stating that the Declaration has been terminated in accordance with the provisions of this Paragraph 7.2. The proceeds arising from such sale, together with any insurance proceeds or condemnation proceeds received as a result of such damage or destruction, shall be distributed by the Association, as trustee, to each Owner (subject to the rights of each Owner's Mortgagee) in equal amounts for each Interval or Declarant Interval owned; provided, however, that there shall be deducted from the amount due any Owner the amount, if any, of all sums due to the Association from such Owner.

7.3 Excess Insurance Proceeds. Any excess insurance or condemnation proceeds over the cost of repair or restoration or any insurance or condemnation proceeds available in the event the Property or the Common Furnishings are not rebuilt, restored, repaired or replaced pursuant to the provisions of this Declaration, shall be distributed by the Association, as

trustee, to the Owners (subject to the rights of such Owners' Mortgagees) in equal amounts for each Interval or Declarant Interval owned; provided, however, that there shall be deducted from the amount due any Owner, the amount, if any, of all sums due to the Association from such Owner.

COPY

## ARTICLE VIII

### TRAFFIC MITIGATION

8.1 Measures. In addition to the powers and duties of the Association as set forth in ARTICLE IV, the Association shall implement and administer the Traffic Mitigation Measures as set forth in this ARTICLE. The responsibility to implement and administer the traffic mitigation measures may be delegated to one or more agents.

8.2 Minimum Measures. The minimum traffic measures shall be as follows and may from time to time be improved upon by the Association:

(a) Transportation shall be provided for Interval Owners, guests and invitees of Interval Owners and employees of contractors retained by or on behalf of the Association. Such transportation shall be scheduled to locations in Stateline, Nevada and South Lake Tahoe, including casinos, ski areas, beaches, horse stables, tour boats, golf courses, tennis courts, shopping areas and the South Lake Tahoe Airport. All such transportation shall be subject to applicable federal, state and local laws and regulations regulating transportation services.

(b) The Association shall monitor vehicular traffic to and from the Property, as per the Tahoe regional Planning Agency's plan. If vehicular traffic exceeds 100 cars per day to and from the Property for the periods identified (including Presidents' Birthday, Weekend Holidays in February

and the Wednesday between the birthday weekends from 10:00 A.M. to 6:00 P.M. and the Third Saturday and Third Wednesday in August from 10:00 A.M. to 6:00 P.M.) by the Tahoe Regional Planning Agency; and if the existing transportation service provided pursuant to this paragraph is then being utilized to capacity, additional transportation services shall be provided.

(c) Prior to the time that vehicular traffic exceeds 100 cars per day, as specified by the Tahoe Regional Planning Agency, transportation shall be provided by a motor vehicle having a capacity of not fewer than fifteen passengers. At such time that vehicular traffic exceeds 100 cars per day, as specified in Paragraph 8.2(b) hereof, an additional motor vehicle having a capacity of eight passengers shall be added to existing system.

(d) The Association shall take reasonable steps to inform Interval Owners of the availability of the transportation services and to promote the use of the transportation services.

(e) The Association shall prepare a report and present such report to the Tahoe Regional Planning Agency annually by May 1st specifying the results of the monitoring of vehicular traffic to and from the Property and monthly ridership of existing system.

8.3 Amendment. Notwithstanding the provisions of ARTICLE 9.1 relating to amendment of this Declaraton, the

provisions of ARTICLE VIII may not be amended to reduce or eliminate the traffic mitigation measures unless such amendment shall be approved by the Tahoe Regional Planning Agency and by the Douglas County Community Development Department. The Tahoe Regional Planning Agency may take whatever measures are necessary to enforce ARTICLE VIII.



ARTICLE IX

MISCELLANEOUS PROVISIONS

9.1 Amendment. Except as otherwise specifically provided herein, this Declaration may be amended by the vote or written assent of 75% of the members of the Association. Any amendment shall be binding upon every Owner and every Interval whether the burdens thereon are increased or decreased. No amendment shall require the consent or approval of any Mortgagee. Any amendment authorized hereby shall be evidenced by an instrument in writing, signed and acknowledged by any two officers of the Association, which amendment shall be effective upon filing in the Office of the Douglas County Recorder. Notwithstanding the above provision, this Declaration may be amended by Declarant alone at any time prior to the Starting Date or prior to issuance of the Nevada Property Report or the California Final Public Report to conform with any requirement imposed by the Nevada Division of Real Estate, California Department of Real Estate, County of Douglas, Nevada or the Tahoe Regional Planning Agency, provided that such amendment shall not substantially interfere or reduce the rights of any Interval Owner to use or enjoy the Property.

9.2 Termination. Subject to the provisions of Paragraph 7.2 and subparagraphs 9.2(a) through (d), inclusive, this Declaration shall remain in effect for a period of 50 years from the date of recordation hereof and thereafter shall remain in effect for successive periods of 10 years each.

(a) This Declaration may be terminated at any

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time (i) after thirty (30) years from the date of recordation of this Declaration, by the vote or written assent of Owners holding 75% of the voting rights of the Association electing to terminate the Declaration and authorizing the Association to sell the Property, or (ii) upon the occurrence of the events described in Paragraph 7.2 above. In such event, each Interval Owner, by accepting the conveyance of an Interval, whether or not it shall be so expressed in the Original Deed, hereby confers upon the Association, as trustee, the power and authority, as more particularly described in subparagraph 9.2(b) below, to sell, convey or otherwise transfer the Property, together with any improvements thereon, and this Declaration shall terminate upon the consummation of such sale and the recordation of an instrument stating that this Declaration is terminated pursuant to subparagraph 9.2(a). Notwithstanding the termination of this Declaration as hereinabove provided in this subparagraph 9.2(a) and the termination thereby of all of the covenants, conditions, restrictions, easements, rules and regulations, liens and equitable servitudes created by this Declaration, the existence of the Association shall continue for so long as reasonably required to provide for the collection and disbursement of the proceeds from the sale, conveyance or transfer of the Property.

(b) Each Interval Owner, by accepting the conveyance of an Interval, whether or not it shall be so expressed in the Original Deed, agrees that each conveyance by

Original Deed is made upon the express condition subsequent that on the occurrence of any event which will result in termination of this Declaration pursuant to Paragraph 9.2(a), the interest conveyed by each Original Deed in the Property will terminate and Declarant or its successors shall have the right to re-enter and to take full possession of the Property and all improvements thereon, and that each Owner's rights shall thereafter be limited to receipt of a share of the sale proceeds as provided by this Declaration. Declarant hereby sells, transfers and assigns its rights to this possibility of reversion to the Association. Further, each Interval Owner, by accepting the conveyance of an Interval, whether or not it shall be so expressed in the Original Deed, hereby constitutes and appoints the Association, as trustee, as his attorney-in-fact in his name, place and stead, and for his use and benefit, to execute, acknowledge and deliver on behalf of each Interval Owner any instrument or document which is required in order to effect a sale, conveyance or transfer of the Property, together with any improvements thereon, pursuant to this subparagraph 9.2(b), including, but not limited to, (i) a trust agreement pursuant to which the Association, as trustee, may acquire title to the Property for the purpose of disposing of the same as provided in subparagraph 9.2(a) above, and pursuant to which trust agreement each Interval Owner shall be a beneficiary, and (ii) such documents of conveyance as may be reasonably required to convey title to the Interval(s) of each

Interval Owner to the Association, as trustee. Each Interval Owner does further give and grant unto the Association, as trustee, as his attorney-in-fact, full power and authority to do and perform any act necessary and proper to be done in the exercise of the foregoing power, including, without limitation, the power and authority to petition for sale in lieu of partition, if necessary to effect such conveyance, as fully as each Interval Owner might or could do.

(c) In the event that no conveyance, sale or transfer of the Property shall have been effected by the Association within six (6) months after (i) the date upon which the Owners shall elect to terminate this Declaration as provided in subparagraph 9.2(a) above, or (ii) the date upon which an event described in Paragraph 7.2 above, shall have occurred, each Owner shall have the right to petition a court of competent jurisdiction for the sale of the Property in lieu of partition thereof.

(d) The proceeds from a sale of the Property conducted pursuant to judicial action or the power of sale conferred upon the Association as set forth in subparagraphs 9.2(a) and (b) above, shall be distributed by the Association, as trustee, to each Owner (subject to the rights of each Owner's Mortgagee) in equal amounts for each Interval or Declarant Interval owned; provided, however, that there shall be deducted from the amount due any Owner, the amount, if any, of all sums due to the Association from such Owner.

9.3 Enforcement of Bonded Obligations. When Common Area improvements have not been completed prior to the issuance of the Nevada Property Report or the Final Public Subdivision Report for the Property and the Association is the Obligee under a bond or other arrangement (hereinafter "Bond") to secure performance of the commitment of Declarant to complete the improvements, the following provisions relative to the initiation of action to enforce the obligations of Declarant and the surety under the Bond shall pertain:

(a) The Board shall consider and vote on the question of action by the Association to enforce the obligations under the Bond with respect to any improvements for which a Notice of Completion has not been filed within sixty (60) days after the completion date specified for that improvement in the Planned Construction Statement appended to the Bond. If the Association has given an extension in writing for the completion of any Common Area improvements, the Board shall be directed to consider and vote on the aforesaid questions if a Notice of Completion has not been filed within thirty (30) days after the expiration of any such extension.

(b) If the Board decides not to or fails to initiate enforcement action, notice shall be given to all Members of the Association of such decision and, upon receipt of the petition referred to below, there shall be a special meeting of the Members for the purpose of either voting to override a decision by the Board not to initiate action to

enforce the obligations under the Bond or to vote whether to do so upon the failure of the Board to consider and vote on the question. The meeting shall be required to be held not less than thirty-five (35) nor more than forty-five (45) days after receipt by the Board of a petition for such a meeting signed by Members representing five percent (5%) or more of the total voting power of the Association.

(c) There shall be a vote by the Class A Members at the special meeting called for the purpose set forth in subsection (b) above.

(d) A vote of a majority of the Class A Members to take action to enforce the obligations under the Bond shall be deemed to be the decision of the Association and the Board shall thereafter implement this decision by initiating and pursuing appropriate action.

9.4 Covenant Not to Encumber. Notwithstanding any provisions of this Declaration to the contrary, Declarant, its successors or assigns shall not encumber the Property after recordation of this Declaration without the vote or written consent of a majority of the Class A Members.

9.5 Notices. Notices provided for in this Declaration shall be in writing and shall be deemed sufficiently given either when delivered personally at the appropriate address set forth below (in which event, such notice shall be deemed effective only upon such delivery) or 48 hours after deposit of same in any United States post office box in the state to which

the notice is addressed, 72 hours after deposit of same in any such post office box other than in the state to which the notice is addressed, postage prepaid, addressed as set forth below. Any notice to an Owner required under this Declaration shall be addressed to the Owner at the last address for such Owner appearing in the records of the Association or, if there be none, at the address of the Property. Notices to the Association shall be addressed to the address designated by the Association by written notice to all Owners. Notices to the Managing Agent shall be addressed to the address designated by the Managing Agent by written notice to all Owners. Notices to Declarant shall be addressed to CAPRI RESORTS, INC., c/o Carl Morrison, 1405 Shorebrook Drive, Seattle, Washington 98166. The addresses and addressees for purposes of this Paragraph 9.5 may be changed by giving written notice. Unless and until such written notice is received, the last address and addressee as stated by written notice or as provided herein, if no written notice of change has been sent or received, shall be deemed to continue in effect for all purposes hereunder.

9.6 Notification of Sale of Interval. No later than 30 days prior to the sale or transfer of any Interval under circumstances whereby the transferee becomes the Interval Owner thereof, the transferor shall notify the Association in writing and in whatever form, if any, required by the Association of such pending sale or transfer. Such notice shall set forth the name and address of the transferee and transferor, and the date

on which such sale or transfer is to be consummated. Unless and until such notice is given, the Association shall not be required to recognize the transferee for any purpose, and any action taken by the transferor as an Interval Owner may be recognized by the Association. Prior to receipt of any such notification by the Association or the Managing Agent, any and all communications required or permitted to be given by the Association shall be deemed duly given and made to the transferee if duly and timely made and given to such transferee's transferor.

9.7 Severability and the Rule Against Perpetuities.

If any provisions of this Declaration, or any section, sentence, clause, phrase or word or the application thereof in any circumstances, shall be held invalid, the validity of the remainder of this Declaration and of the application of such provision, sentence, clause, phrase or word under any other circumstances shall not be affected thereby. If any provision of this Declaration would violate the Rule Against Perpetuities or any other limitation on the duration of the provisions contained herein imposed by law, then such provisions shall be deemed to remain in effect only for the maximum permissible period permitted by law or until 21 years after the death of the last survivor of the now living decedents of former President James E. Carter and of President Ronald Reagan, whichever is later.

9.8 Successors. The provisions of this Declaration



shall be binding upon all parties having or acquiring any Interval or any right, title or interest therein and shall be for the benefit of each Interval Owner and his heirs, successors and assigns. Each Owner shall be fully discharged and relieved of liability on the covenants herein insofar as such covenant relate to each Interval upon ceasing to own such Interval and paying all sums and performing all obligations hereunder insofar as the same relate to each Interval up to the time his ownership interest terminated.

9.9 Violation or Nuisance. Every act or omission whereby any provision of this Declaration, the By-Laws or the Rules and Regulations is violated in whole or in part is hereby declared to be a nuisance and may be enjoined or abated whether or not the relief sought is for negative or affirmative action, by Declarant, the Association or any Owner.

9.10 Interpretation. The captions of the ARTICLES, Paragraphs and subparagraphs hereof are for convenience only and shall not be considered to expand, modify or aid in the interpretation, construction or meaning of this Declaration. As used herein the singular shall include the plural and the masculine shall include the feminine and neuter.

9.11 No Waiver. The failure to enforce any provision of this Declaration shall not constitute a waiver thereof or of the right to enforce such provision thereafter.

IN WITNESS WHEREOF, the Declarant has hereunto caused this Declaration to be executed this 4th day of February, 1983.

CAPRI RESORTS, INC.  
a Nevada Corporation

By Carl A Carlson  
Carl A Carlson, <sup>President</sup> v PRBS

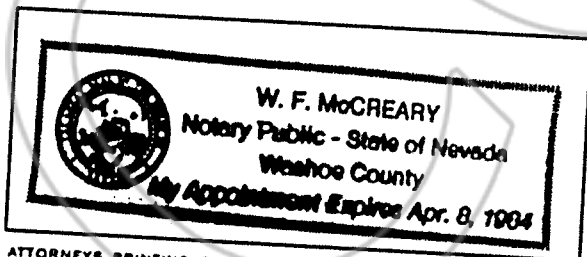
By \_\_\_\_\_, Secretary

Acknowledgment - Corporation

State of Nevada }  
County of Douglas } ss.

On this 4th day of February, in the year 1983 before me W.F. McCreary,  
a Notary Public personally appeared Carl A. Carlson, personally  
AND QUALITY OF THE OFFICER (HERE INSERT THE NAME)

known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed the within instrument as president (or secretary) or on behalf of the corporation therein named and acknowledged to me that the corporation executed it.



ATTORNEYS PRINTING SUPPLY FORM NO. 7  
CC 1190, 11901 (REV. 1982)

W. F. McCreary  
Notary Public for California

The legal description of the property is as follows:

The land situated in the State of Nevada, County of Douglas and described as follows:

All that certain lot, piece or parcel of land situate in the County of Douglas, State of Nevada, being a portion of the North 1/2 of the Northwest 1/4 of Section 26 Township 13 North, Range 18 East, M.D.B.&M., described as follows:

Parcel 3, as shown on that amended Parcel Map for John E. Michelsen and Walter Cox recorded February 3, 1981, in Book 281 of Official Records, at page 172, Douglas County, Nevada, as Document No. 53178, said map being an amended map of Parcels 3 and 4 as shown on that certain map for John E. Michelsen and Walter Cox, recorded February 10, 1978, in Book 278 of Official Records at page 591, Douglas County, Nevada, as Document No. 17578.

Assessment Parcel No. 07-130-19-8

**EXHIBIT A**

**076233**  
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CERTIFICATE OF DEDICATION

(Kingsbury Crossing)

THIS CERTIFICATE is made this \_\_\_\_\_ day of \_\_\_\_\_, 198\_\_\_, by FIRST COMMERCIAL TITLE, INC., a Nevada corporation, as Trustee of The Kingsbury Crossing Trust, and is made with reference to the following recitals:

A. Trustee is the owner of legal title of that certain real property (the "Property") located in the County of Douglas, State of Nevada, comprised of 63 separate living units (each of which is herein called a "Dwelling Unit"). The Property is subject to the covenants, conditions and restrictions contained in that certain Declaration of Timeshare Use executed by CAPRI RESORTS, INC., a Nevada corporation ("Declarant") dated \_\_\_\_\_, 1983, and recorded \_\_\_\_\_, 1983, as Instrument No. \_\_\_\_\_, Official Records of Douglas County, Nevada ("Declaration"), as such Declaration may be amended from time to time.

When Recorded Mail to:

Capri Resorts, Inc.  
P. O. Box 5446  
Stateline, Nevada 89449

076233

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EXHIBIT E

Pursuant to Paragraph 1.32 of the Declaration, Declarant has the right to designate which Dwelling Unit will be designated as a "Unit" (as defined in the Declaration, which designation shall be evidenced by the recordation of a "Certificate of Dedication". Trustee, as successor-in-interest, is authorized pursuant to Paragraph 1.32 to execute this Certificate.

B. By this Certificate of Dedication, Trustee intends to designate certain of the Dwelling Units as "Units", all as more particularly set forth below:

NOW, THEREFORE, IN FURTHERANCE OF SUCH INTENT, Trustee hereby declares that Dwelling Unit No(s). \_\_\_\_\_ is (are) hereby designated as "Unit(s)". The dedication of the above-referenced Dwelling Units as "Unit(s)" shall be effective upon the recordation hereto and shall continue until such time as the Declaration shall be terminated in accordance with the terms and provisions contained therein or until Trustee (or Declarant after termination of the trust) shall record an instrument revoking such dedication, which instrument shall contain the written consent of the Nevada Division of Real Estate to such revocation.

IN WITNESS WHEREOF, Trustee has hereunto caused this certificate to be executed the day and year first above written.

FIRST COMMERCIAL TITLE, INC.,  
a Nevada corporation.

By \_\_\_\_\_

STATE OF NEVADA )  
 ) ss.  
County of \_\_\_\_\_ )

On \_\_\_\_\_, 19\_\_\_\_, before me, the under-  
signed, a Notary Public in and for said State, personally  
appeared \_\_\_\_\_, known to me  
to be the President, and \_\_\_\_\_, known  
to me to be the Secretary of the corporation that executed the  
within instrument, known to me to be the persons who executed  
the within instrument on behalf of the corporation therein  
named, and acknowledged to me that such corporation executed  
the within instrument pursuant to its Bylaws or a resolution of  
its boards of directors.

WITNESS my hand and official seal.

\_\_\_\_\_  
NOTARY PUBLIC

COPY

CARRI RESORTS, INC.

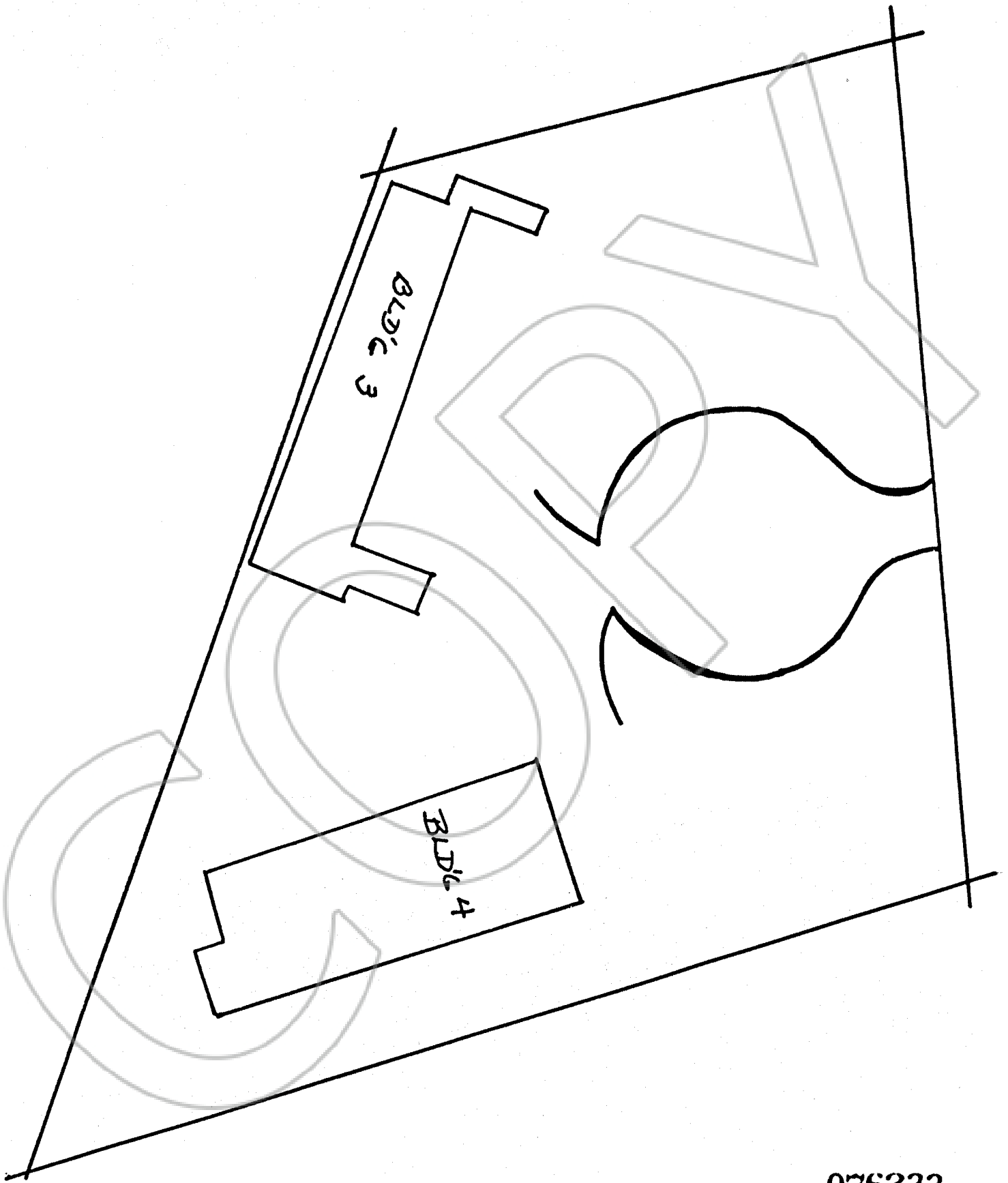
63 DWELLING UNITS

49 "A UNIT TYPES"

14 "B UNIT TYPES"

076233

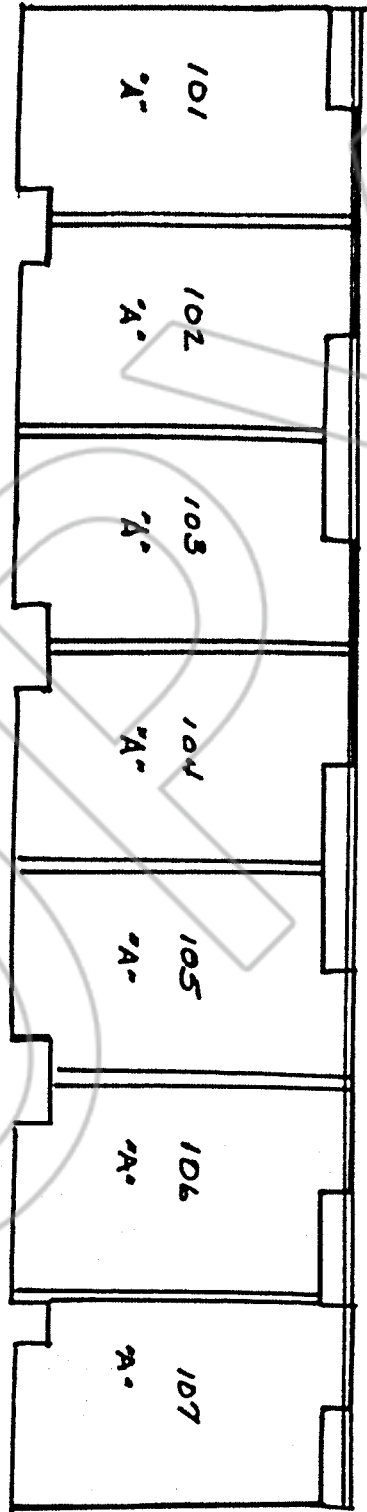
LIBER 283 PAGE 1427

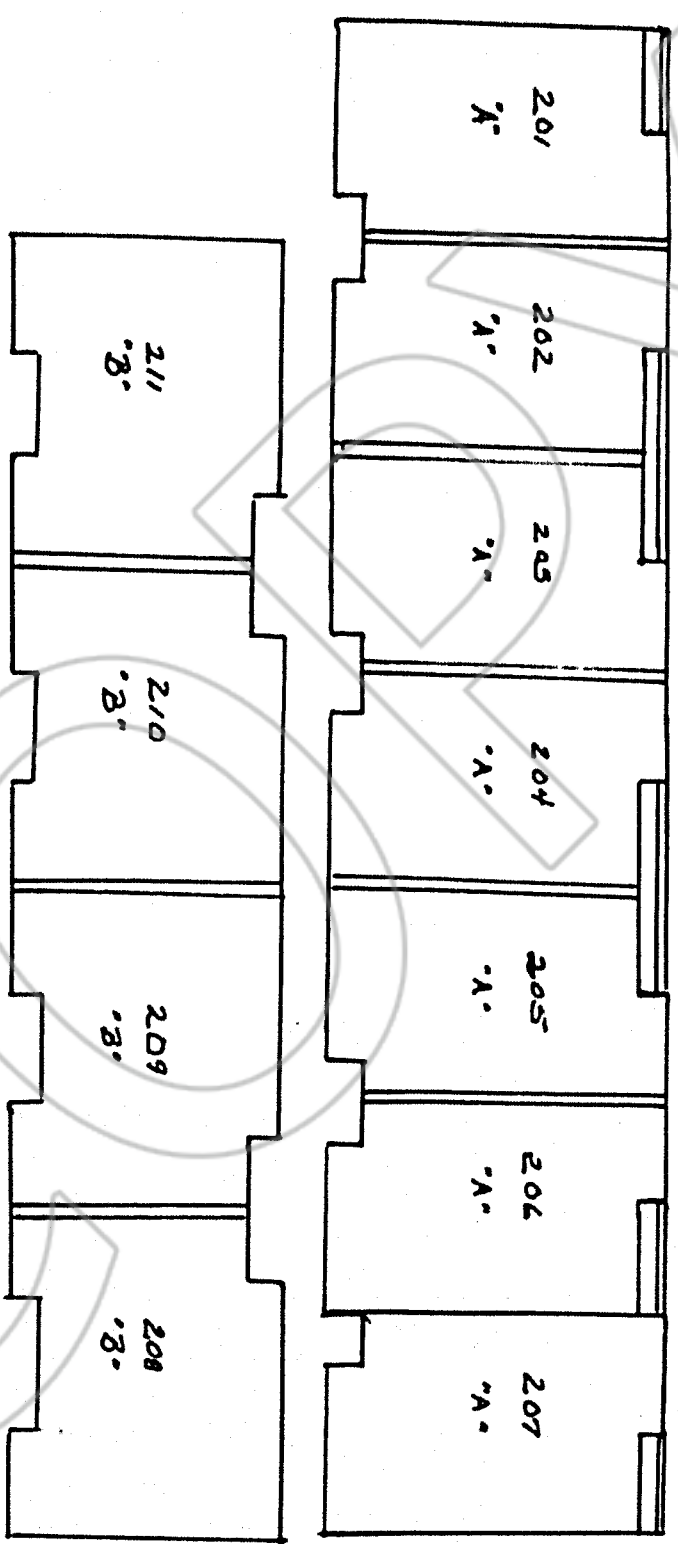


076233



LOWER FLOOR PLAN BLDG. # 3

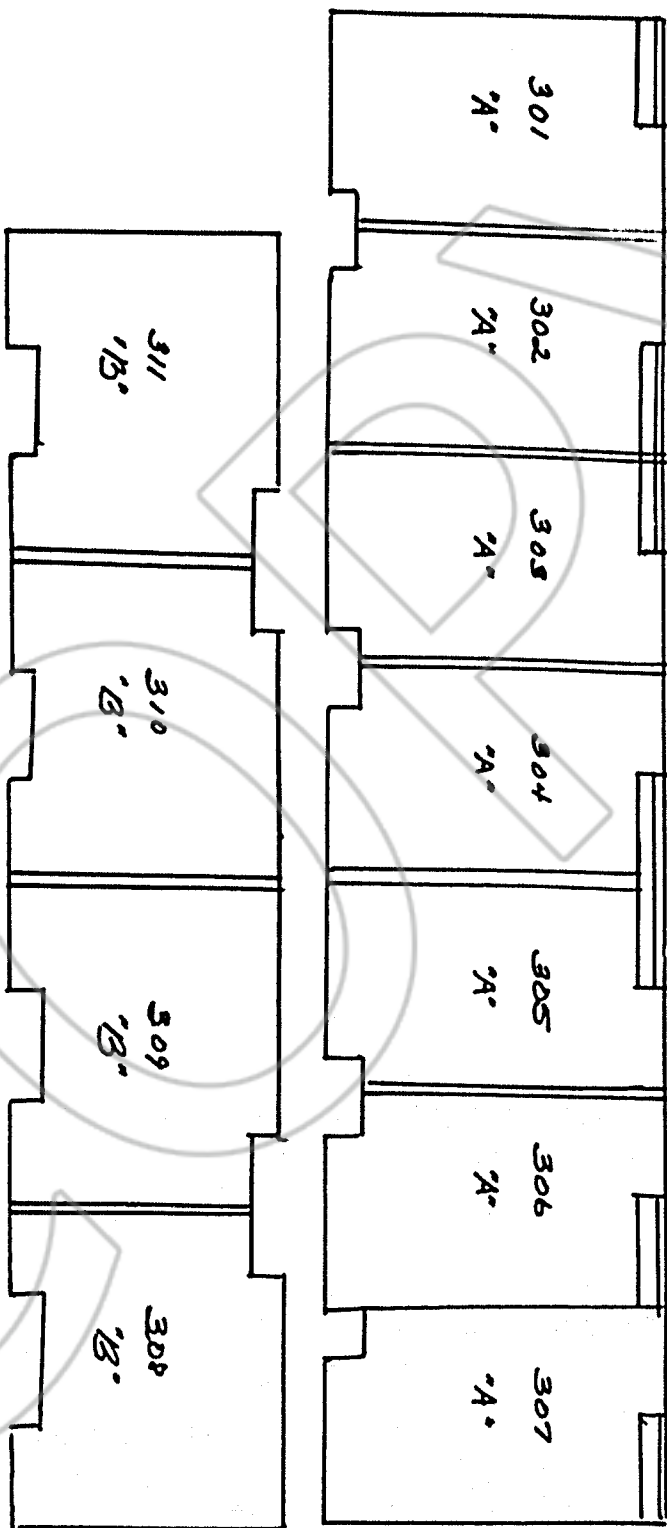




SECOND FLOOR PLAN BLDG. #3

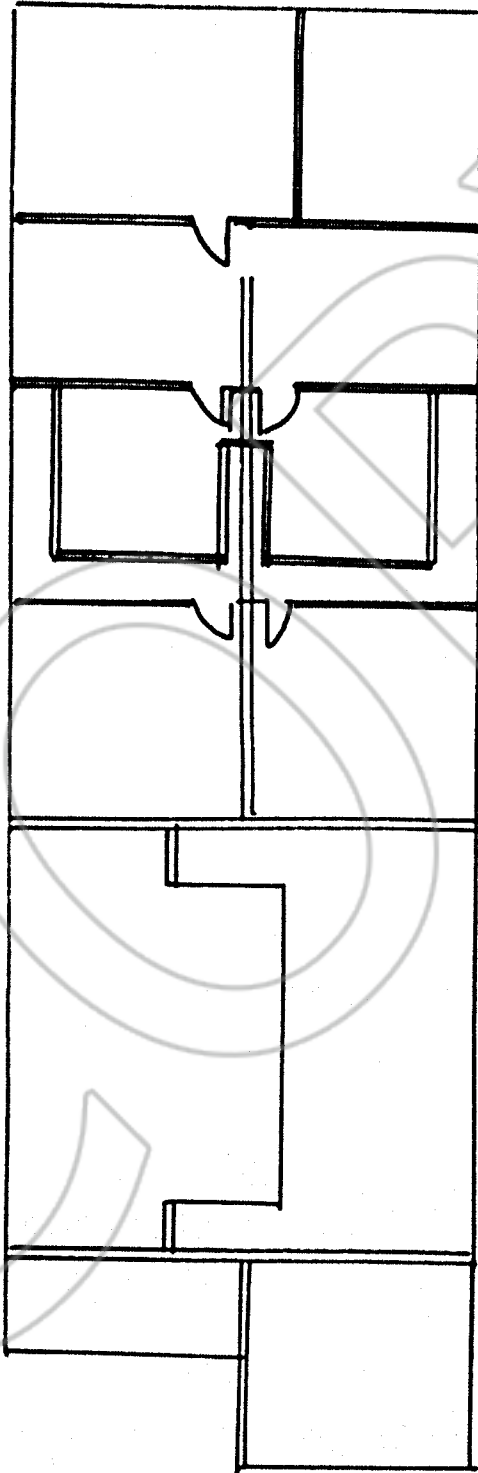
THIRD FLOOR PLAN

BLDG. #3

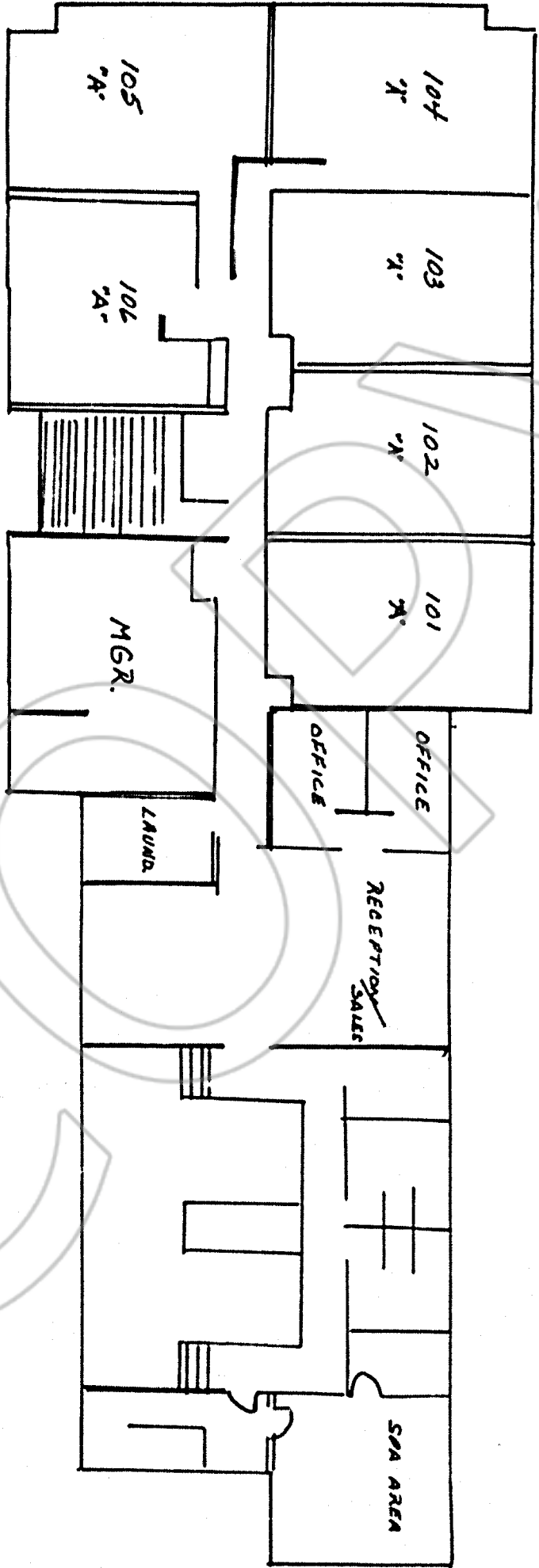


BASEMENT FLOOR PLAN

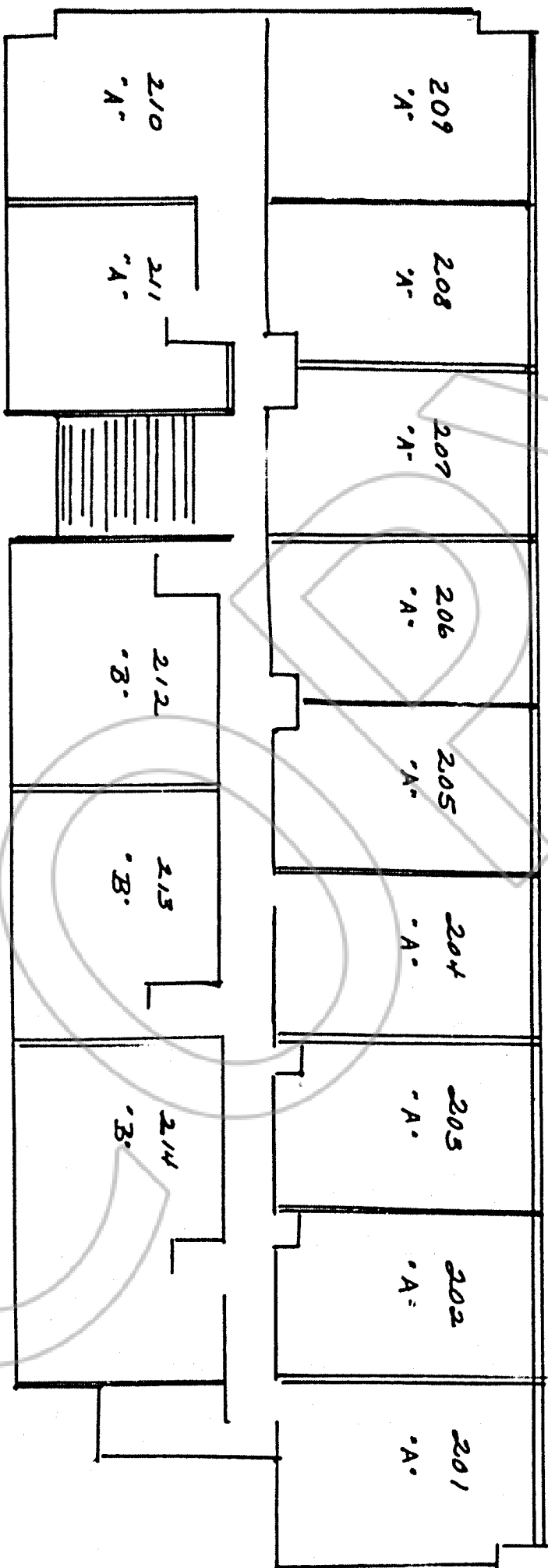
BLDG. #4



MAIN FLOOR PLAN BLDG. #4



076233



SECOND FLOOR PLAN

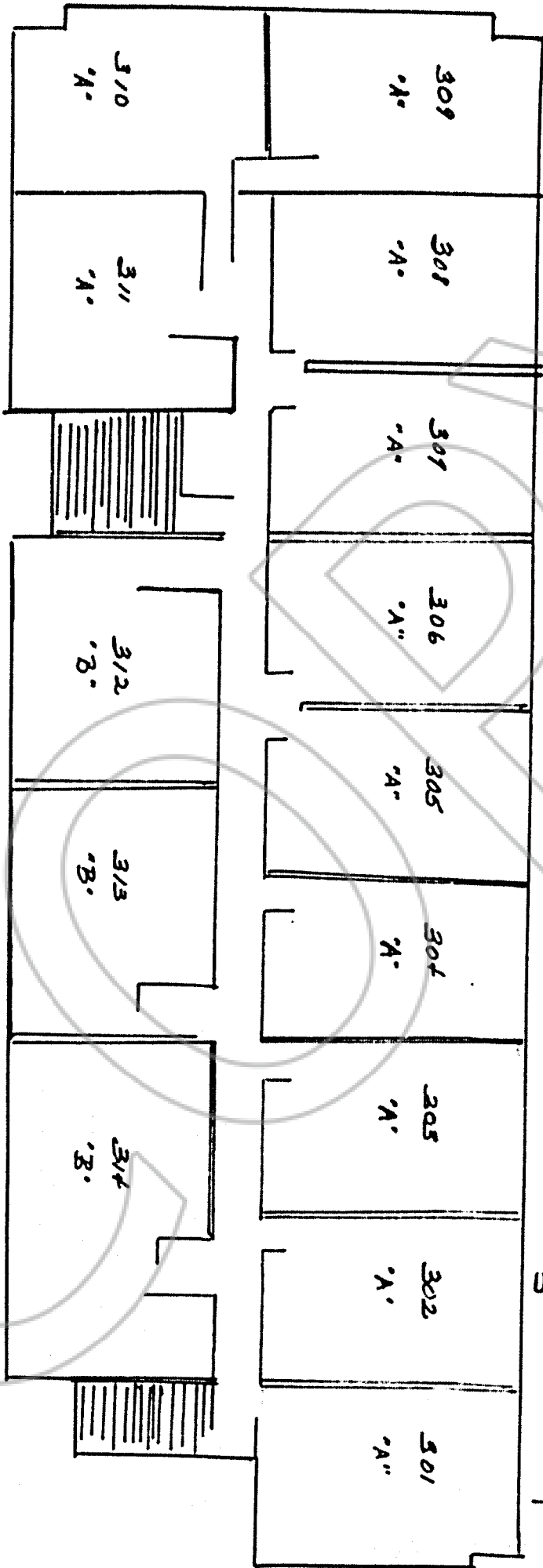
BLDG. #4

076233

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THIRD FLOOR PLAN

BLDG. #4



REQUESTED BY  
DOUGLAS COUNTY TITLE

IN OFFICIAL RECORDS OF  
DOUGLAS CO. NEVADA

\$ 99.00 00

1983 FEB 16 PM 12:11

SUZANNE BEAUDREAU  
RECORDER

*Suzanne Beaudreau* 076233

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